

# **REQUEST FOR PROPOSAL**

THE COLORADO DEPARTMENT OF TRANSPORTATION (CDOT)

## **SECTION 1.0**

### **ADMINISTRATIVE INFORMATION**

#### **0.1 ISSUING OFFICE:**

This request for proposal is issued for the State of Colorado by the Colorado Department of Transportation, Procurement Branch. All contact regarding this RFP is to be directed to:

Detrica "Trish" Wilson, Purchasing Agent  
4201 E. Arkansas Ave., Room 150  
Denver, CO 80222 (303) 757-9782

#### **1.2 PURPOSE:**

The purpose of this Request for Proposal (RFP) is to obtain competitive bid proposals from qualified appraisers that possess a current Certified General Appraiser certification as issued by the Colorado Board of Real Estate Appraisers interested in performing "appraisal services". Appraisal services will pertain to particular transportation projects that may be located in any one (or more) of the six (6) CDOT Transportation Regions throughout the State, on an "as needed" on-call basis. See Attachment A for a list of counties served by each CDOT Region. "Appraisal services" consist generally of the following:

- a) real property appraisals and completion of appraisal reports for project parcels to be identified by CDOT; and
- b) certain "litigation services", if necessary, related to such appraisals; and
- c) real property appraisals and completion of appraisal reports for the disposal or sale of CDOT owned properties; and,
- d) appraisal of non-eminent domain properties to be purchased by CDOT; and
- e) access opening appraisals; and
- f) Local Public Agency transportation projects subject to CDOT oversight; and
- g) other appraisal assignments deemed necessary by CDOT.

Such services are collectively referred to as "the Work", and are more completely described in Section 5.0, Scope of Work, of the RFP. Transportation projects for

which specific parcels may need to be acquired are described in Attachment B, as may be amended.

Specific parcels to be appraised will not be identified until some future date. Performance of the Work for parcels will be subject to future negotiations between CDOT and the contractor and will be authorized only if and when CDOT issues a Task Order, pursuant to the contract.

CDOT intends to select and contract with a number of qualified proposers as a result of this RFP.

This RFP provides prospective proposers with sufficient information to enable them to prepare and submit proposals for consideration by CDOT to satisfy the needs as outlined in the scope of work.

1.3	SCHEDULE OF ACTIVITIES:	DATE:	TIME (MST):
	1. RFP published on BIDS	12/15/1999	N/A
	2. Prospective proposers inquiry deadline (no questions accepted after this date)	2 weeks 01/05/2000	5:00 p.m.
	3. Response to proposer questions	1 week  01/14/2000	5:00 p.m.
	4. Proposal submission deadline	2 weeks 02/02/2000	2:00 p.m.
	5. Top consultants selected and notified of interviews (estimate), if appropriate	02/25/2000	N/A
	6. Oral interviews with a short list of consultants (estimate, if required)	03/06-08/2000	N/A
	7. Consultant selection (estimate)	03/10/2000	N/A
	8. Desired date of executed contracts	04/03/2000	N/A

1.4 PROPOSAL SUBMISSION:

All proposals must be received by the CDOT Procurement Branch, 4201 E. Arkansas Ave., Room 150, Denver, CO 80222 no later than the date and time shown in the Schedule of Activities, Deadline for receipt of proposals. Each proposal shall consist of six (6) copies, one of which must be identified as an original of the consultant's complete proposal, as well as six (6) copies of a partial acquisition appraisal, as later described, one copy of which must be identified as an original appraisal. It is the responsibility of the proposer to ensure that their proposal is received in the Purchasing Office, prior to the deadline. Consultants

mailing proposals should allow ample mail delivery time to ensure timely receipt of their proposals. PROPOSALS RECEIVED AFTER THE ABOVE DATE AND TIME WILL NOT BE CONSIDERED.

Proposals must be clearly identified as a proposal for the CDOT **RFP #HAA 06-2000/TW** and shall show such information on the outside of the proposal packet. Proposals will not be accepted by facsimile transmittal.

Proposers are advised that CDOT encourages that proposals prepared in response to this RFP be submitted on recycled paper. While the appearance of proposals is important, and professionalism in proposal presentation should not be neglected, the use of nonrecyclable or nonrecycled glossy materials is discouraged. In addition, please submit proposals in flat bound form to facilitate filing. Please do not submit proposals in loose-leaf binders.

**1.5 INQUIRIES:**

Prospective proposers may make written inquiries concerning this RFP to obtain clarification of requirements. No inquiries will be accepted after the date and time specified in the Schedule of Activities, prospective proposer's inquiry deadline. Questions must be submitted in writing on the proposer's letterhead to:

Detrica "Trish" Wilson, Purchasing Agent  
Colorado Department of Transportation  
4201 E. Arkansas Avenue, Room 150  
Denver, CO 80222

All envelopes containing questions must be clearly marked "Inquiry for RFP #HAA 06-2000/TW" to facilitate handling and distribution. Inquiries sent by fax will be accepted (Fax number 303-757-9669). An addendum will be mailed to all individuals who received the original RFP and will respond to all the questions submitted regarding the RFP.

**1.6 AMENDMENTS TO RFP:**

In the event it should be necessary to revise any portion of this RFP, addenda will be provided to all proposers who received the original RFP. If you received this RFP by means other than the BIDS system, you must furnish your name, address and telephone number to the CDOT Purchasing Agent identified above in order to receive any addendum to this RFP.

1.7 RESPONSE MATERIAL OWNERSHIP:

All material submitted regarding this RFP becomes the property of the State of Colorado. Proposals may be reviewed by any person after the "Notice of Intent to Make an Award" letter has been issued, subject to the terms of Section 24-72-201 et. seq., C.R.S., as amended, Public (open) Records.

1.8 PROPRIETARY INFORMATION:

All material submitted in response to this RFP will become public record and will be subject to inspection after an Intent to Award notice is issued. Any material requested to be treated as proprietary or confidential must be clearly identified and easily separable from the rest of the proposal. Such request must include justification for the request. The request will be reviewed and either approved or denied by the CDOT Purchasing Director. If denied, the proposer will have the opportunity to withdraw its entire proposal, or to remove the proprietary restrictions. NEITHER COST OR PRICING INFORMATION NOR A TOTAL PROPOSAL WILL BE CONSIDERED PROPRIETARY.

1.9 REJECTION OF PROPOSALS:

The State of Colorado reserves the right to reject any or all proposals received in response to this RFP, or to cancel this RFP if it is in the best interest of the State to do so. Failure to furnish all information or to follow the proposal format requested in this RFP may disqualify the proposal. Any exceptions to the Scope of Work must be identified in the proposal.

1.10 INCURRING COSTS:

CDOT shall not be obligated or be liable for any cost incurred by proposers prior to issuance of a contract. All costs to prepare and submit a response to this solicitation shall be borne by the proposer.

1.11 EVALUATION CRITERIA:

An evaluation will be made by an evaluation committee to evaluate the merit of proposals received in accordance with the evaluation criteria defined herein. The recommendations of this group will be forwarded to the CDOT Purchasing Director for approval.

- a) Failure of the proposer to provide in his/her proposal any information requested in this RFP may result in disqualification of the proposal and shall be the responsibility of the proposing individual.
- b) During the evaluation process, discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being selected for award. It will be the recommendation of the evaluation committee if discussions for clarification are needed.
- c) The sole objective of the evaluation committee will be to recommend the proposers whose proposals are most responsive to the State's needs while

within the available resources. The specifications within this RFP represent the minimum performance necessary for response.

d) Specific evaluation criteria are outlined in the section entitled Evaluation.

**1.12 CONTENT:**

The contents of a successful proposal, (with any adjustments agreed to by the parties), together with the RFP, shall become contractual obligations of that proposer, if CDOT elects to:

a) award a contract to the proposer; and

b) issue a Task Order to the proposer pursuant to that contract.

Failure of a successful proposer to accept the contents of its proposal and the RFP as obligations in a Task Order issued pursuant to the contract may result in cancellation of the award and such contractor may be removed from future solicitation lists.

**1.13 PROVISION FOR REQUIRED INSURANCE:**

Award of a contract will be contingent upon the successful proposer submitting certificates of insurance in accordance with the provisions of the attached Provision for Required Insurance (Attachment C).

**1.14 CONSULTANT CERTIFICATION:**

Proposers must submit a signed Consultant Certification Form, CDOT Form #637 (Attachment E), with their proposal.

**1.15 CONFLICT OF INTEREST:**

By submission of a proposal, proposer agrees that, at the time of contracting, the contractor has no interest, direct or indirect, that would conflict in any manner or degree with the performance of the contractor's services. The contractor shall further covenant that, in the performance of the contract, the contractor shall not employ any person having any such known interest.

**1.16 INVITATION FOR BID:**

The Invitation for Bid Form, which is the cover page for this RFP, must be signed, in ink, by a person authorized to bind the proposer, and returned with the proposal.

**1.17 AUDIT OF THE SELECTED VENDOR(S):**

Prior to final contract award, CDOT has the right to conduct an audit of the selected proposer(s). Upon CDOT request, a proposer must submit the requested cost data and records to CDOT for audit. This audit will examine the proposer's financial stability, ability to comply with CDOT'S billing procedures, actual cost rates, and profit, to ascertain if the prices contained in the proposal submitted by the proposer are fair, reasonable, and allowable. The selected proposer(s) shall make and keep all records for a period of not less than three years after completion of the contract

concerning the performance of the RFP work in accordance with standard business practice, and shall make such records available to CDOT for review and inspection at any reasonable time upon request.

Prior to final completion or up to three years after completion of the contract work, an audit of the selected proposer(s) may be conducted by the CDOT's External Audit Branch. This final closeout audit may be performed upon completion of the contract to verify compliance with the contract provisions.

**1.18 BUDGETED FUNDS:**

Funds are available and budgeted for this project, and specific amounts will be encumbered by Task Orders.

**1.19 INTENT TO AWARD:**

After one or more proposer(s) is selected, an Award Notice will be published on the BIDS, and CDOT will attempt to mail "Intent to Award" letters to all individuals who submitted a proposal. It will be the bidder's responsibility to monitor the BIDS listings periodically to view any awards that may have been issued. After an intent to award has been issued, interested parties may review the proposals by making an appointment with Detrica "Trish" Wilson, (Purchasing Agent) at (303) 757-9782. In accordance with the Colorado Procurement Rules, parties have a right to file a protest regarding this RFP. Protests must be in written form and must be received by the CDOT Purchasing Director within seven (7) working days of the time the protesting party knows, or should have known, of the facts giving rise to the protest. Protests received after the seven-working-day period shall not be considered. The written protest shall include, as a minimum, the following:

- a) The name and address of the protestor;
- b) Appropriate identification of the procurement by bid, RFP, or award number;
- c) A statement of the reasons for the protest; and
- d) Any available exhibits, evidence or documents substantiating the protest.

**1.20 It is the intent of CDOT to select a vendor within 60 days of the deadline for receipt of proposals. However, bid proposals must be firm and valid for award for at least 120 days after the deadline for receipt of proposals.**

**1.21 NEWS RELEASES:**

News releases pertaining to this RFP shall NOT be made prior to execution of a contract, and then are to be made only with the approval of CDOT.

**1.22 CERTIFICATION OF INDEPENDENT PRICE DETERMINATION:**

0.21.01 By submission of this proposal each offeror certifies, and in the case of a joint proposal each party, thereto certifies as to its own organization, that in connection with this procurement:

- (a) The prices in this proposal have been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other offeror or with any competitor;
- (b) Unless otherwise required by law, the prices which have been quoted in this proposal have not been knowingly disclosed by the offeror and will not knowingly be disclosed by the offeror prior to opening, directly or indirectly to any other offeror or to any competitor; and
- (c) No attempt has been made by the offeror to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.

1.22.2 Each person signing the Invitation for Bid form of this proposal certifies that:

He/she is the person in the offeror's organization responsible within that organization for the decision as to the prices being offered herein and that he/she has not participated, and will not participate, in any action contrary to 1.22.1(a) through (c) above;

or

He/she is not the person in the offeror's organization responsible within that organization for the decision as to the prices being offered herein but that he/she has been authorized in writing to act as agent for the persons responsible for such decision in certifying that such persons have not participated, and will not participate, in any action contrary to 1.22.1(a) through (c) above, and as their agent does hereby so certify; and he/she has not participated, and will not participate, in any action contrary to 1.22.1(a) through (c) above.

0.21.3 A proposal will not be considered for award where 1.21.1 (a) and (c), or 1.22.2 above has been deleted or modified. Where 1.22.1 (b) above has been deleted or modified, the proposal will not be considered for award unless the offeror furnishes with the proposal a signed statement which sets forth in detail the circumstances of the disclosure and the head of the CDOT Procurement Office, or designee, determines that such disclosure was not made for the purpose of restricting competition.

1.23 TAXES:

The State of Colorado, as purchaser, is exempt from all Federal taxes under Chapter 32 of the Internal Revenue Code (Registration No. 84-730123K) and from all State and Local Government Use Taxes (Ref. Colorado Revised Statutes Chapter 39-26.114[a]). Seller is hereby notified that when materials are purchased in certain political subdivisions the seller may be required to pay sales tax even though the ultimate product or service is provided to the State of Colorado. This sales tax will not be reimbursed by the State.

**1.24 FUNDS:**

Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available. In the event funds are not appropriated, any resulting contract will become null and void, without penalty to the State of Colorado.

**1.25 STATEMENT OF WORK:**

See Section 5.0, Scope of Work.

**1.26 BACKGROUND, OVERVIEW, AND GOALS:**

The anticipated performance of numerous transportation projects has been (or may be) prioritized by CDOT. This will result in the need for early and expedient appraisal and acquisition of the real property parcels required for the right-of-way of such projects, in order to reduce cost and serve the public interest. Also, CDOT has the need for “appraisal services” for the disposal or sale of CDOT owned properties and other “appraisal services” as may be needed.

However, the decision as to when to initiate such a project and the timing of the actual performance of the project are subject to variables outside CDOT's control. A number of these projects will involve complicated partial acquisitions, and some projects may need to be performed immediately and/or within the same time period, thereby straining CDOT's existing appraisal resources, but CDOT does not know in advance which projects will need complicated and/or expedited services.

The large number of potential projects further complicates CDOT's task of contracting for timely appraisals on such projects. CDOT cannot wait until a particular project actually begins before starting a selection process for “appraisal services” for that project, since the time required for that process would interfere with the project schedule.

CDOT needs a mechanism to quickly select a number of qualified parties that will agree to be available, on-call, to perform timely appraisals in the future, if and when CDOT determines that such services are needed and issues a Task Order to authorize the services on a project or for the appraisal of CDOT owned property. Such a mechanism will save CDOT time and reduce public cost. CDOT intends to use this RFP as that mechanism.



## SECTION 2.0

### INFORMATION REQUIRED FROM PROPOSERS

#### Offeror Response Format

The following items must be addressed in sufficient detail in your proposal, in order to enable CDOT to use such items as evaluation criteria under Section 3.0.

It is the sole responsibility of the proposer to provide all information required/requested by this RFP and identified herein in sufficient detail for its stated purpose. FAILURE OF THE PROPOSER TO PROVIDE IN ITS PROPOSAL ANY INFORMATION REQUIRED BY THIS SECTION, OR IN THE DETAIL REQUIRED BY THIS SECTION, WILL RENDER THE PROPOSAL “NONRESPONSIVE” AND WILL RESULT IN DISQUALIFICATION OF THE PROPOSAL. NONRESPONSIVE PROPOSALS WILL NOT BE EVALUATED.

#### 2.1 APPRAISAL REPORT:

The proposer shall provide an appraisal report [See Section 2.9 a)] of their most complex partial acquisition appraisal using the State of Colorado modified before and after rule. Six (6) copies of the appraisal report must be submitted with one of the copies marked or identified as an original. The appraisal report may have been prepared for another condemning agency besides CDOT, or for a property owner. The appraisal report must be signed by the proposer as a sole signatory, or must be co-signed by the proposer, or the proposer must be acknowledged in the “Certification of Appraiser” as having provided significant professional assistance in its performance. The appraisal and appraisal report must have been personally performed by the proposer.

A proposer that is the sole signatory or a co-signer of the report will be considered to have performed all appraisal analysis including the final valuation conclusions.

If the proposer only received acknowledgement as having provided significant professional assistance in the performance of the appraisal, then a signed affidavit from the proposer must be submitted. The affidavit shall clearly state that the proposer who received professional acknowledgement actually performed the valuation analysis and arrived at an independent final value conclusion.

#### 2.2 EXPERIENCE:

##### 2.2.1 APPRAISAL EXPERIENCE:

The proposer shall provide information showing what “appraisal services” (or other related work) they have done for CDOT, FHWA, property owners, and/or other public agencies which qualifies them to perform the services outlined in the RFP.

##### 2.2.2 LITIGATION EXPERIENCE:

The proposer shall provide information regarding "litigation services" experience and the extent of previously provided litigation related services to CDOT, FHWA, property owners, and/or other public agencies at pre-trial hearings, depositions, court appearances, and expert witness testimony concerning the "appraisal services" performed. List Federal and State District Courts where the proposer has been qualified as an expert witness, and the number of times the proposer has testified as an expert in litigation valuation. Also list litigation depositions and hearings where proposer has qualified as an expert witness.

2.3 EDUCATION:

The proposer shall provide information showing all course work taken in real property appraisal and/or a related field.

2.4 "APPRAISAL SERVICES" HOURLY RATE OF PAY:

As part of its proposal in response to this RFP, the proposer shall develop and submit one specific rate of pay (proposer's hourly rate, not an estimate), in accordance with b) below, for the performance of the "appraisal services" part of the Work identified in Section 5.0 of the RFP. That rate shall be applicable to all projects and "appraisal services" performed for CDOT, on which CDOT authorizes the proposer to perform that Work by issuing a Task Order therefor.

- a) That specific rate of pay will be used to determine total payment for the satisfactory performance of that part of the Work by the proposer on particular projects, if any, authorized by CDOT Task Order. (See Sections 4.5 through 4.9)
- b) That one rate, multiplied by the maximum number of hours agreed to by the parties, and the resulting lump sum shall be used to fully compensate the proposer for its performance of that part of all "appraisal services" Work authorized by CDOT Task Order. The proposer must include in that rate all its costs for performance of the "appraisal services" part of the Work, (including personnel time, subcontractors, equipment, supplies, copies, office, overhead, and profit) or all/any other costs of any kind needed to perform the work. If necessary and/or appropriate, travel and per diem will be negotiated separately.
- c) The number of hours needed to perform the "appraisal services" part of the Work required on a particular project will be negotiated, as described in Section 4.6 herein, and included in the Task Order issued by CDOT to the proposer for the work on that project.

2.5 "LITIGATION SERVICES" HOURLY RATE OF PAY:

As part of its proposal in response to this RFP, the proposer shall also develop and submit one "specific hourly rate" of pay (not an estimate) for resulting "litigation services" part of the Work identified in Section 5.0 of the RFP, which rate shall be applicable to all projects on which CDOT authorizes the proposer to perform that Work by issuing a Task Order therefor.

That rate of pay will be used to determine total payment for the satisfactory performance of that part of the “litigation services” Work by the proposer on particular projects, if any, authorized by CDOT Task Order. The number of hours actually used to perform the Work shall be documented by that proposer by the use of time sheets as the costs are incurred.

That one rate, multiplied by the number of hours the contractor actually performs such “litigation services” Work, shall be used to fully compensate the proposer for its performance of that part of all Work authorized by CDOT Task Order. The proposer must include in that rate all its costs for performance of the “litigation services” part of the Work. Travel and per diem will be negotiated separately if necessary and/or appropriate.

**2.6 CONTRACTOR/PROPOSER COLORADO OFFICE:**

The contractor/proposer shall maintain an office in Colorado during the performance of the Work. The contractor/proposer shall identify the complete address, phone number, and open hours of an office it maintains in Colorado for the performance of appraisal work, where parties involved in or affected by any project CDOT may authorize the proposer to perform, so CDOT can obtain information and answers to questions regarding that project Work.

**2.7 CDOT REGION WORK PREFERENCE:**

Each proposer shall indicate in its proposal which of the six particular CDOT Regions in which it will agree to perform the “appraisal services” Work. (Please refer to the attached listing of various counties served by each CDOT Region.) It is acceptable for a proposer to indicate that it will agree to perform the Work in only one Region (e.g., Region 5), or in only certain particular Regions (e.g., Region 1 and 3 or in Region 1, 3, and 4 or any other combination), or in all six Regions (e.g., Region 1, 2, 3, 4, 5, and 6).

Any such indication of “agreement” or “preference” will be used to compile the Master List and Region List described in Section 4.5.

**2.8 PROPOSER APPRAISER CERTIFICATION:**

The proposer shall possess a current Certified General Appraiser certification as issued by the Colorado Board of Real Estate Appraisers. A copy of State of Colorado Certified General Appraiser certification issued by the Board of Real Estate Appraisers must be submitted.

**2.9 ADDITIONAL ITEMS FOR SUBMITTAL:**

In addition to those items addressed above, the following items must be included in your proposal to be considered responsive:

- a) One (1) original and five (5) copies of the proposal and one (1) original and five (5) copies of a partial acquisition appraisal that demonstrates the proposer's knowledge of the State of Colorado modified before and after rule.
- b) Signed Request for Proposal form including certification of non-conflict of interest and the hourly rate proposed for "appraisal services" and "litigation services".
- c) The proposer shall provide a List of References, which CDOT may use to confirm litigation valuation right of way services work the proposer and its subcontractors have performed similar to those outlined in this RFP.
- d) Proof of Insurance in accordance with the Provision of Required Insurance. Contractor may submit an informational certificate if available, or contractor may submit writing (from their insurance company) stating contractor is eligible for coverage if awarded a contract.
- e) Signed Consultant Certification form (CDOT Form #637) (Attachment E).

## SECTION 3.0

### EVALUATION CRITERIA

#### 3.1 AWARD OF BID:

This section will outline the evaluation process and criteria to be used by the evaluation committee in the selection of the submitted proposals. After evaluation of the written proposals, CDOT may request oral presentations to a panel of evaluators from those proposals with scores of 70 or above. If presentations are requested, the proposers will be given fair and equal treatment in that process. After the presentations, the proposals will be ranked based on the same criteria. Those proposals with a score of 70 or above will receive a final ranking, and Contracts will be awarded to those proposals.

#### 3.2 EVALUATION PROCESS:

3.2.1 An evaluation committee will independently evaluate the merit of proposals received in accordance with the evaluation factors defined in the RFP. The recommendations of this committee will be forwarded by the project leader/manager to the CDOT Procurement office for review and approval.

3.2.2 Failure of the offeror to provide any information requested in the RFP may result in disqualification of the proposal and shall be the responsibility of the offeror.

3.2.3 The sole objective of the evaluation committee will be to recommend offerors whose proposals are most responsive to the State of Colorado's needs while

within the available resources. The specifications within the RFP represent the minimum performance necessary for response.

3.2.4 Proposals with scores of 70 and above will be recommended for award.

**3.2.5 EVALUATION CRITERIA:**

This section will outline the evaluation criteria to be used by the CDOT Evaluation Committee in recommending the selection of responsive proposals

All selected responsive proposers will be ranked, based upon the numeric weights assigned by CDOT to the evaluation criteria described in Section 3.2.5 and the overall score given by CDOT for each proposal's compliance with such criteria, i.e., the proposal that best complies with the evaluation criteria will get the highest score.

CDOT will contract, on an as needed basis, with those proposers whose proposals, conforming to the RFP, will be most advantageous to CDOT. Work on specific projects will be assigned at a later date, as explained in Section 4.5.

Proposals will be scored on technical merit using THE EVALUATION CRITERIA LISTED BELOW. No other factors or criteria shall be used in the evaluation. The criteria are listed in descending order of their relative weight/importance, with criteria #1 having the most weight/importance.

**The Criteria are:**

- 1) APPRAISAL REPORT (35 points):  
The proposer will be evaluated on the partial acquisition appraisal report submitted. The appraisal methodology reflected in the report, including without limitation the quality and complexity and use of sound judgement in the correlation of values, will be the basis for the evaluation.
- 2) EXPERIENCE (25 points):  
The proposer will be evaluated on eminent domain appraisal experience and litigation experience regarding appraisals, with regard to quality, quantity, relevance, and appropriateness to the project.
- 3) EDUCATION (25 points):  
The proposer will be evaluated on their educational background in Real Property Appraisal.
- 4) SPECIFIC HOURLY RATES (15 points):

The proposer's specific hourly rates for "appraisal services," and the proposer's specific hourly rates for "litigation services," will be considered in the evaluation.

### 3.3 CONFIDENTIALITY:

#### 3.3.1 SUBMISSION OF CONFIDENTIAL/PROPRIETARY INFORMATION:

The State neither requests nor encourages the submission of confidential/proprietary information in response to this proposal. Information submitted will be open for public inspection. However, written requests for confidentiality can be submitted to the CDOT Purchasing Manager provided that the submission is in STRICT accordance with the following procedures. This remains the SOLE RESPONSIBILITY of the offeror.

#### 2.2.2 PROCEDURE:

- 1) Written request for confidentiality shall be submitted, by the offeror, with the proposal documents.
- 2) The written request will be enclosed in an envelope marked "REQUEST FOR CONFIDENTIALITY," and attached to the cover of the ORIGINAL copy of the offeror's proposal that contains the CDOT invitation for proposal page with the offeror's ORIGINAL autographic signature.
- 3) The written request must state SPECIFICALLY, AND IDENTIFY BY PAGE NUMBER, what elements of the proposal are to remain confidential, OTHER than a recitation of a SPECIFIC State or Federal statute, is REQUIRED.
- 4) Confidential/propriety information MUST be readily IDENTIFIED, MARKED and SEPARATED/PACKAGED from the rest of the proposal. Co-mingling of confidential/propriety information and other information is NOT acceptable.
- 5) The CDOT Purchasing Agent will make a written determination as to the apparent validity of any request for confidentiality. The written determination of the Purchasing Agent will be sent to the offeror.
- 6) Proposals that are determined to be a variance with this procedure may be declared non-responsive by the Purchasing Agent, and not given further consideration.

### 3.4 ADDENDUM OR SUPPLEMENT TO REQUEST FOR PROPOSAL:

In the event that it become necessary to revise any part of this RFP, an addendum will be provided to each offeror who received the original RFP. It is the offeror's responsibility to make known to the CDOT Purchasing Office its interest in the RFP if it has not received the RFP in a direct mailing or from the BIDS process.

- 3.5 **ORAL PRESENTATION/SITE VISITS:**  
Offerors may be asked to make oral presentations or to make their facilities available for a site inspection by the evaluation committee. Such presentations and/or site visits will be at the offeror's expense and for the total evaluation committee and the Purchasing Agent.
- 3.6 **ACCEPTANCE OF RFP TERMS:**  
A proposal submitted in response to the RFP shall constitute a binding offer. Acknowledgment of this condition shall be indicated by the autographic signature of the offeror or an officer of the offeror legally authorized to execute contractual obligations. A submission in response to the RFP acknowledges acceptance by the offeror of all terms and conditions including compensation, as set forth herein. An offeror shall identify clearly and thoroughly any variations between its proposal and the CDOT's RFP. Failure to do so shall be deemed a waiver of any rights to subsequently modify the terms of performance, except as outlined or specified in the RFP.
- 3.7 **PROTESTED SOLICITATIONS AND AWARDS:**  
Any actual or prospective offeror or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the CDOT Procurement Director. The protest shall be submitted in writing within seven (7) working days after such aggrieved person knows, or should have known, of the facts giving rise thereto. Ref. Section 24-109, 101 et seq., C.R.S., as amended; Section 24-109, 201 et. seq., C.R.S. as amended; Section R-24-109-101 through R-24-109-206, Colorado Procurement Rules.
- 3.8 **RFP RESPONSE MATERIAL OWNERSHIP:**  
All material submitted regarding this RFP becomes the property of the State of Colorado. Proposals may be reviewed by any person after the "Notice of Intent to Make an Award" letter has been issued, subject to the terms of Section 24-72-201 et seq., C.R.S., as amended, Public (open) Records.
- 3.9 **PROPOSAL PRICES:**  
Estimated proposal prices are not acceptable. Best and final offers cannot be considered in determining the apparent successful offeror.
- 3.10 **SELECTION OF PROPOSAL:**  
All offerors will be notified in writing regarding the results of the RFP evaluation. Upon review and approval of the evaluation committee's recommendation for award, the CDOT Procurement Office will issue a "Notice of Intent to Make an Award" letter to the apparent successful offerors. Provided, however, that all offerors understand that such letter, by itself, does not grant any property interest or right of any nature in the RFP work/services or to a contract for the performance of such work/services. Contract terms that are consistent with the RFP and that are acceptable to the State must first be negotiated, and a contract must then be completed and signed by all parties and the State Controller, before any such right exists. Therefore, the apparent successful offeror that receives a "Notice of Intent

to Make an Award” letter shall not rely on that letter to make commitments to third parties, and the apparent successful offeror shall not take any action(s) to prepare for or start the performance of the RFP work/services until a contract is so negotiated and executed. Also, a contract must be completed and signed by all parties concerned on or before the date indicated in the Schedule of Activities. If the parties are unable to agree on negotiated terms, for the contract, or if this schedule date is not met through no fault of the CDOT, the CDOT may elect to cancel “Notice of Intent to Make an Award” letter and make the award to the next most advantageous offeror.

**3.11 AWARD OF CONTRACT:**

The award will be made to that offeror whose proposal, conforming to the most advantageous to the State of Colorado and CDOT, price and other factors considered, subject to negotiation and execution of an acceptable contract as described above.

**3.12 ACCEPTANCE OF PROPOSAL CONTENT:**

The contents of the proposal (including persons specified to implement the project) of the successful offeror will become contractual obligations if acquisition action ensues. Failure of the successful offeror to accept these obligations in a contract, purchase document, delivery order or similar acquisition instrument may result in cancellation of the award and such offeror may be removed from future solicitations.

**3.13 STANDARD CONTRACT:**

The State of Colorado will incorporate standard State contract provisions into any contract resulting from this RFP (see enclosed sample contract).

**3.14 RFP CANCELLATION:**

The State reserves the right to cancel this Request for Proposal at any time, without penalty.

**3.15 STATE OWNERSHIP OF CONTRACT PRODUCTS/SERVICES:**

Proposals, upon established opening time, become the property of CDOT. All products/services produced in response to the contract resulting from this RFP will be the sole property of CDOT. The contents of successful offerors proposals will become contractual obligations.

**3.16 INCURRING COSTS:**

The State of Colorado is not liable for any cost incurred by offerors prior to issuance of a legally executed contract or procurement document. No property interest, or any nature shall occur until a contract is awarded and signed by all concerned parties.

**3.17 PARENT COMPANY:**

If an offeror is owned or controlled by a parent company, the name, main office address and parent company's tax identification number shall be provided in the proposal.



3.18 ASSIGNMENT AND DELEGATION:

Except for assignment of antitrust claims, neither party to any resulting contract may assign or delegate any portion of the agreement without the prior written consent of the other party.

3.19 INDEPENDENT CONTRACTOR CLAUSE:

All personal service contracts must contain the following clause:

"THE CONTRACTOR SHALL PERFORM ITS DUTIES HEREUNDER AS AN INDEPENDENT CONTRACTOR AND NOT AS AN EMPLOYEE. NEITHER THE CONTRACTOR NOR ANY AGENT OR EMPLOYEE OF THE CONTRACTOR SHALL BE OR SHALL BE DEEMED TO BE AN AGENT OR EMPLOYEE OF THE STATE, AND THEY SHALL HAVE NO AUTHORIZATION, EXPRESS OR IMPLIED, TO BIND THE STATE TO ANY AGREEMENTS, SETTLEMENTS, LIABILITY, OR UNDERSTANDING EXCEPT AS EXPRESSLY SET FORTH HEREIN. THE CONTRACTOR SHALL BE RESPONSIBLE TO THE STATE FOR THE ULTIMATE RESULTS OF PERFORMANCE REQUIRED HEREUNDER BUT SHALL NOT BE SUBJECT TO THE DIRECTION AND CONTROL OF THE STATE AS TO THE MEANS AND METHODS OF ACCOMPLISHING THE RESULTS. THE SPECIFICATIONS IN THIS CONTRACT OF PARTICULAR PERFORMANCE STANDARDS THE STATE DEEMS ESSENTIAL TO PROPER PERFORMANCE AND CONTRACT VALUE SHALL IN NO EVENT BE DEEMED TO ALTER THIS RELATIONSHIP. THE CONTRACTOR SHALL PAY WHEN DUE ALL REQUIRED EMPLOYMENT TAXES AND INCOME TAX WITHHOLDING, INCLUDING ALL FEDERAL AND STATE INCOME TAX ON MONEYS PAID PURSUANT TO THIS CONTRACT. THE CONTRACTOR SHALL PROVIDE AND KEEP IN FORCE WORKER'S COMPENSATION (AND SHOW PROOF OF SUCH INSURANCE) AND UNEMPLOYMENT COMPENSATION INSURANCE IN THE AMOUNTS REQUIRED BY LAW, AND SHALL BE SOLELY RESPONSIBLE FOR THE ACTS OF CONTRACTOR, ITS EMPLOYEES AND AGENTS. THE CONTRACTOR ACKNOWLEDGES THAT THE CONTRACTOR AND ITS EMPLOYEES ARE NOT ENTITLED TO THE BENEFITS OF WORKER'S COMPENSATION INSURANCE OR UNEMPLOYMENT INSURANCE UNLESS THE CONTRACTOR OR A THIRD PARTY PROVIDES SUCH COVERAGE AND THAT THE STATE DOES NOT PAY FOR OR OTHERWISE PROVIDE SUCH COVERAGE."

3.20 INDEMNIFICATION:

To the extent authorized by law, the contractor shall indemnify, save, and hold harmless the State, its employees, and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by the contractor or its employees, agents, subcontractors, or assignees pursuant to the terms of the contract resulting from this RFP.

3.21 VENUE:

The laws of the State of Colorado, U.S.A. shall govern in connection with the formation, performance and the legal enforcement of any resulting contract.

Further, Title 24, C.R.S. as amended, Article 101 through 112 and Rules adopted to implement the statutes govern this procurement.

## SECTION 4.0

### TERMS OF CONTRACT

#### 4.1 CONTRACT:

The successful proposer(s) will be required to enter into a formal "as needed" contract, as defined in Section 4.4. The contract will incorporate the RFP, standard contract terms, Special Provisions (see Attachment D), published addenda and the response of the successful proposers. Any contract resulting from this RFP may not be modified, amended, extended or augmented except through an authorized contract modification executed by the parties hereto, and any breach or default by a party shall not be waived or released other than in writing signed by the other party. CDOT reserves the right to eliminate or exclude aspects of the proposal which may be determined by CDOT to be unnecessary or which aspects CDOT decides to assume itself or let out by separate contract.

Any Task Order issued to a contractor to authorize the performance of the Work on a particular project (See Section 4.7) will incorporate therein all terms and conditions of the contract.

#### 4.2 CONTRACT TERMS:

Standard contract terms (See Attachment F) shall be included in the contract, and they are not negotiable. By submitting a proposal in response to this RFP, the proposer shall be deemed to have agreed to all such terms and to their inclusion in the contract, except only to the extent that the proposal takes express exception to any such term(s) and describes the reasons therefor. Provided, however, that the state may, in its sole discretion, waive the required application of any such term(s), if the state determines that is in its best interests in the circumstances.

#### 3.3 LENGTH OF CONTRACT:

The term of this contract shall begin on the date first written above indicating Controller approval and shall extend no more than two (2) years from that date unless otherwise specified, earlier terminated, or extended pursuant to state fiscal rules provided that the vendor shall remain responsible for contract obligations which necessarily continue beyond such termination date, including final audit. The State may require, at its discretion, additional terms or period(s) of one (1) year or two (2) years at the sole option of CDOT but in no case shall the contract extend beyond five (5) years from the date first approved by the controller as noted above.

#### 4.4 "AS NEEDED" CONTRACT BASIS:

Each selected proposer will contract with CDOT on an "as needed" basis to be available, on-call, to perform the Work, but such contractor will be authorized by CDOT to perform the Work on a specific project parcel only if CDOT issues a Task Order therefor pursuant to the contract. The term "as needed" means:

- a) that CDOT has, in advance, completed a competitive selection process in accord with applicable procedures and contracted with selected proposers to be

available to perform some or all of the Work (in order to save the time that process would otherwise take when the Work is actually required to be performed), but that neither CDOT nor a selected proposer has any obligation under that contract until and unless a Task Order is issued pursuant thereto; the contract resulting from the RFP will be considered a mere "pricing agreements" and

- b) that CDOT will issue a Task Order to perform the Work only if, and when, and to the extent, CDOT determines, in its sole discretion, that the Work is needed on a particular project, and that a particular proposer should perform that Work; and
- c) that CDOT does not guarantee a certain quantity of Work to any selected proposer, and that CDOT shall have no obligation to provide any Work (or Work on particular projects) to a selected proposer, and that a selected proposer has no justified expectancy that it will be given any of the Work unless and until CDOT issues a Task Order therefor; and
- d) that CDOT may elect to perform some or all of the Work on some or all of the parcels with its own forces, or to let out some or all of the Work by separate contract/ Task Order to meet Department appraisal requirements or project schedules, or to not perform the Work, with no obligation to the contractor, and
- e) that either CDOT or the contractor may terminate the contract for convenience, by providing 30 days prior written notice thereof, without liability or obligation, at any time: 1) before CDOT issues a Task Order and the contractor begins performance of the Work under that Task Order; or 2) after work under a Task Order has been completed.
- f) Any "as needed" contract resulting from the RFP is not, and shall not be construed to be, a "requirements" contract or an "output" contract. Any such "as needed" contract is merely a "price list" or "pricing agreement", which by itself is unenforceable.

#### 4.5 METHOD TO ASSIGN PROJECT WORK:

CDOT intends to contract with a number of proposers, pursuant to this RFP, to be available to perform "appraisal services" and related "litigation services". After CDOT contracts with such proposers/contractors CDOT intends to use the method described below to assign some, or all, of the Work on a particular project to a particular contractor, but only to the extent CDOT determines that use of that method is practicable.

Administratively, CDOT has divided the State into six (6) geographic Transportation Regions, as described in Attachment A which lists counties served by each CDOT Region. Each Region has need for selected proposers to be available to perform "appraisal services" work. Since the particular transportation projects for which CDOT will need "appraisal services" will be located in one (or more) of the CDOT

Transportation Regions, each of the six (6) CDOT Regions will need the performance of “appraisal services”. Therefore, CDOT intends to compile a ranking list of selected proposers for each CDOT Region, based upon this RFP.

ACCORDINGLY, EACH PROPOSER IS REQUESTED TO EXPRESSLY INDICATE IN ITS PROPOSAL: 1) WHETHER IT WILL AGREE TO PERFORM THE “APPRAISAL SERVICES” WORK IN ONE, OR MORE, OR ALL, OF THE SIX (6) CDOT REGIONS; AND 2) WHETHER IT PREFERS TO PERFORM THE “APPRAISAL SERVICES” WORK IN ONE OR MORE OF THE REGIONS WHEREIN IT WILL AGREE TO PERFORM THE WORK.

Proposers are advised that by so indicating their agreement/preference to perform the Work in one or more particular CDOT Regions, they will have a greater chance of being awarded more of the available Work.

The ranking list procedure will be as follows. First, CDOT will rank all proposers, based on degree of compliance with the evaluation criteria, in order to establish an overall statewide Master List (“Master List”). Second, based upon the stated Region preferences of those proposers ranked on the Master List, CDOT will then also establish a ranking list for each Region (“Region List”). CDOT will then use the method described below to assign some, or all, of the Work on a particular project in a particular Region to the highest ranked proposer on that Region List.

The METHOD is as follows:

- a) When and if CDOT decides that it needs the Work performed on a particular project in a particular Region, CDOT will then consider the highest ranked proposer/contractor that is on that Region List, and that is available to perform that Work. If no proposer is on that Region List, or if a proposer is on that Region List but is not available to perform that Work, CDOT will then consider the highest ranked proposer/contractor that is on the Master List and that is available to perform that Work.
- b) Whether a contractor is "currently available" depends upon a number of factors, including whether the contractor is performing other work, or is performing its own work, or is performing the Work on another CDOT project at that same time.
- c) However in no event will CDOT have an obligation to (and CDOT may not) issue a Task Order to that contractor to perform that Work. Factors that CDOT will consider to determine if it will issue a Task Order include, without limitation, if that contractor:
  - (1) can agree with CDOT on the number of hours to perform that Work, pursuant to Section 4.6; or
  - (2) can meet CDOT's project time schedule; or

- (3) is not currently performing other work, or the Work on another project either in the stated preference Region or in another Region, or otherwise has sufficient staff currently available to perform that Work; or
  - (4) is more qualified than another available contractor to perform that Work, as determined by CDOT, due to complexities and/or other circumstances of the particular project; or
  - (5) any other considerations are present which supports such action, in the public interest; or
  - (6) demonstrates an ability to perform the Work in the most cost effective manner, with least potential liability to the Department, from among available contractors.
- g) CDOT is not required to follow that particular method if CDOT determines the method: a) will not meet CDOT's needs in a particular case; or b) otherwise will not serve the public interest. In that event CDOT will assign work in whatever manner it reasonably determines will meet its needs, and CDOT will use good faith efforts to be fair and equitable to available contractors in the circumstances.
- h) CDOT reserves the right to bypass any particular contractor on the ranking list, or to not select any contractor from that list, based upon the past performance of the available contractors on a CDOT project, specifically including such contractor's competency; timeliness; quality of work; adherence to contract/Task Order terms and conditions; and adherence to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended; 49 CFR Part 24; 23 CFR Parts 710-713; 38 CRS; 43 CRS; CDOT Right of Way Manual, Chapter 3, as may be amended; appropriate State Laws, regulations, policies and procedures; and Uniform Standards of Professional Appraisal Practice.
- i) If CDOT decides to not issue a Task Order to the highest ranked contractor available on the applicable List, CDOT will then consider the next highest ranked contractor that is available to perform that Work on that List. If CDOT decides to not issue a Task Order to that contractor, CDOT will then consider the next highest ranked contractor that is available to perform that Work, and so forth, until CDOT either issues a Task Order to a contractor to perform that Work or decides that it will not award that Work to any selected contractor.

The goals of the above method, in descending order of importance, are: to provide increased efficiency, economy, quality, and flexibility in CDOT's procurement of the Work on particular projects, while taking into account the needs of particular CDOT Regions; then, to foster effective broad-based competition for the Work on a particular project in a particular Region; then, to provide a mechanism to treat contractors fairly; and then, to distribute the Work on the Attachment B projects equitably among the contractors, all subject to the conditions described herein.

4.6 PROCEDURE FOR NEGOTIATED PROJECT HOURS:

CDOT and the particular contractor which it has preliminarily issued “appraisal services” Work on a particular project, pursuant to Section 4.5, must then negotiate an agreement, pursuant to the procedure described in this Section, concerning the maximum number of hours, travel and per diem if appropriate, for a total maximum lump sum amount, that the contractor will be paid for the satisfactory performance of that “appraisal services” Work. . Travel and per diem will be negotiated separately if necessary and/or appropriate.

CDOT will issue a Task Order to that contractor to authorize the performance of that Work, only if CDOT and the contractor negotiate such an agreement.

The PROCEDURE is as follows:

- a) CDOT shall provide a Parcel by Parcel summary of the “appraisal services” Work intended to be performed by that contractor on a particular project. The summary shall contain plans and information describing the location of the project, the types and scope of the “appraisal services” Work required, and the time schedule for accomplishing the “appraisal services” Work.
- b) The contractor shall attend a field inspection with CDOT on a date specified by CDOT concerning that summary, in order to begin negotiations and attempt to agree on the maximum number of hours required to perform that “appraisal services” Work.
- c) Based upon that parcel by parcel summary, CDOT and the selected contractor will each prepare a written estimate of the maximum number of hours which they, respectively, determine are required to satisfactorily perform that “appraisal services” Work. The estimate shall itemize the actual amount to be paid per parcel and shall not be computed on an average rate per parcel. The estimate will include travel and per diem as appropriate.
- d) Based upon their respective estimates, the parties will attempt to negotiate an agreement on the maximum number of hours for which the contractor will be paid to satisfactorily perform that appraisal service Work.
- e) If the parties agree on the maximum number of hours for which the contractor will be paid to satisfactorily perform that “appraisal services” Work, CDOT will then issue a Task Order to the contractor to authorize the performance of that “appraisal services” Work not to exceed that number of hours, at the hourly rate submitted therefore in the proposal, at the resulting lump sum amount.
- f) Resulting “litigation services” Work is to be paid as described in Sections 4.8 and 5.3.

#### 4.7 PROJECT TASK ORDERS:

(Also Reference Section 2.4 and 5.2) If CDOT decides to issue “appraisal services” Work to a particular contractor on a particular project or for the disposal or sale of CDOT owned properties, and if CDOT and the contractor have agreed on the maximum number of hours and the “resulting lump sum amount” that the contractor will be paid for the satisfactory performance of that Work, then CDOT will issue to that contractor one or more Task Orders that specifically describe the details of the “appraisal services” Work to be performed on that project, in accord with the following:

- a) Each Task Order will contain a detailed summary of the “appraisal services” Work to be performed thereunder, the **maximum number of hours** for which the contractor will be paid to satisfactorily perform that “appraisal services” Work, the **resulting lump sum amount** approved for such work (“**resulting lump sum amount**” equals maximum number of hours times the contractor’s specific rate of pay for “appraisal services”), including travel and per diem as appropriate, the required completion dates of that “appraisal services” Work, and all other pertinent information.
- b) The Task Order will include by reference all terms and conditions of the contract. The contractor must perform that Work in accordance with the terms of the Task Order.
- c) The contractor shall not perform any Work which is not expressly authorized by Task Order or which exceeds that Work or the resulting lump sum amount described in the Task Order.
- d) Work performed by the contractor shall be performed only pursuant to a fully executed Task Order. The contractor shall not perform any work not covered by a fully executed Task Order.
- e) The contractor shall commence work on the date the Task Order is approved. The contractor shall submit separate monthly billings for Work performed under each separate Task Order.

#### 4.8 CONDEMNATION PROCEEDINGS TASK ORDERS:

(Also Reference Section 2.5 and 5.3) CDOT may need to issue one or more Task Orders for condemnation proceedings that specifically describe the details of “appraisal services” and “litigation services” Work to be performed on that project or parcels in that project. Refer to Sections 5.2 and 5.3 for a description of “appraisal services” and “litigation services”. The Task Order issued to the contractor will specifically describe the details of the Work to be performed for the condemnation proceedings in accord with the following:

- a) When condemnation proceedings are involved, the Task Order issued will be based upon CDOT’s overall estimated maximum compensation not to be



exceeded by the contractor to update appraisal reports for trial, potential time involving pre-trial and post-trial conferences, testimony at hearings, attendance at depositions CDOT and the Office of the Attorney General determines to be needed, testimony at valuation trials, and other factors.

- b) Each Task Order will contain a summary of the “appraisal services” Work to be performed thereunder (e.g., updating of appraisal reports, attendance at pre-trial and post trial conferences, and any preparations thereof, etc.), based upon the contractor's hourly proposal rate for “appraisal services”. The contractor shall keep a detailed time log of the hours for the “appraisal services” involved. The contractor will be paid after satisfactory performance of “appraisal services” Work connected with the condemnation proceedings. The contractor will be paid based upon the actual hours for the “appraisal services” times the contractor's specific rate of pay (hourly proposal rate) for “appraisal services”. Travel and per diem will be negotiated separately as necessary.
- c) Each Task Order will contain a summary of the resulting “litigation services” Work to be performed thereunder (e.g., attendance and/or testimony at hearings, valuation trials, and CDOT required attendance at depositions, etc.), based upon the contractor's hourly proposal rate for “litigation services”. The contractor shall keep a detailed time log of the hours for the “litigation services” involved. The contractor will be paid after satisfactory performance of those “litigation services” Work connected with the condemnation proceedings. The contractor will be paid based upon the actual hours for the “litigation services” times the contractor's specific rate of pay (hourly proposal rate) for “litigation services”. Travel and per diem will be negotiated separately as necessary.
- d) The Task Order will include by reference all terms and conditions of the contract. The contractor must perform that “appraisal services” and “litigation services” Work in accordance with the terms of the Task Order.
- e) The contractor shall **not** perform any appraisal or “litigation services” Work, which is not expressly authorized by Task Order, or which exceeds that appraisal and litigation service Work or the resulting maximum compensation not to be exceeded by the contractor amount described in the Task Order.
- f) Work performed by the contractor shall be performed only pursuant to a fully executed Task Order. The contractor shall not perform any work not covered by a fully executed Task Order.
- g) The contractor shall commence work on the date the Task Order is approved. The contractor shall submit separate monthly billings for “appraisal services” and “litigation services” Work performed under each separate Task Order based on detailed time sheets showing the actual hours spent performing the Work.

#### 4.9 CONTRACT MODIFICATION TOOL:

CDOT may issue an appropriate Contract Modification Tool to cover unusual or unforeseen circumstances involved in the performance of "appraisal services" Work. The contract modification tool may include an additional "resulting lump sum amount" for the completion of the Work on the project or may remove specific items from the scope of work that the contractor has not performed and that are no longer needed to be performed.

#### 4.10 PRIME CONTRACTOR RESPONSIBILITIES:

The selected contractor shall be solely responsible to CDOT for the complete and satisfactory performance of all Work described in all Task Orders issued to it by CDOT, whether or not it retains any subcontractors to perform part of the Work. CDOT will consider the contractor to be the sole point of contact regarding the Work described in such Task Orders.

- a) The contractor must submit any proposed subcontracts to the CDOT Region Contract Administrator, Region Right of Way Manager, Project Development Branch Right of Way Services Contract Manager or their designee for approval no later than 30 days prior to the commencement of the proposed subcontract work, and the contractor shall not authorize the subcontractor to perform any of the Work until and unless CDOT has approved the subcontract. All subcontractors must meet CDOT pre-qualification requirements and State of Colorado licensing requirements, if applicable.
- b) The contractor may subcontract only those portions of the Work for specialty items (contractor estimates, valuation of signs, land planner reports, engineering services, traffic planners, soils, foundations, etc.) needed to complete the appraisal reports, and only with prior written approval of CDOT.
- c) If the contractor retains a subcontractor to perform a portion of the work, the contractor must include language in the subcontract (to be provided by CDOT) to protect CDOT's interest, and which expressly requires the subcontractor to perform certain litigation related services for CDOT that result from the subcontracted work, upon notice from CDOT. The contractor must also expressly provide in any subcontract that no sub-subcontracting by a subcontractor is permitted.
- d) Contractor and subcontractor personnel involved in the performance of the Work shall not be removed, reassigned to another project, or replaced without prior notification to and approval by CDOT.
- e) The contractor must advise CDOT ten (10) days in advance of an organizational change involving ownership.

#### 4.11 COLORADO OFFICE REQUIREMENTS:

The contractor shall maintain an office in Colorado during the performance of the Work. Costs for maintaining the office, equipment and supplies shall be a part of

the contractor's normal business expense for all the contractor's employees working on CDOT projects and will not be separately reimbursed by CDOT.

4.12 STANDARD CONTRACT:

See Section 3.13 of this RFP.

4.13 CONTRACT PAYMENT TYPE:

The contract payment type resulting from this RFP will be specific rate of pay for "appraisal services," and specific rate of pay for related "litigation services."

4.14 PAYMENT:

CDOT will make payments (less 20% withholding) for the work actually and satisfactorily performed on particular projects, based upon the documented hours spent performing the work multiplied by the hourly rate specified in the contract. CDOT shall withhold up to 20% from the compensation due a contractor for the performance of the Work. The withholding will be held to assure satisfactory completion of all terms of the task order on a particular project, and will be paid after full review of the appraisals. Depending upon the completion due date for the project assignment, a contractor can submit an invoice for the performance of the Work as follows:

- a) For a project with a completion date of 30 days or less, an invoice for payment in full at the completion of the entire project and after full appraisal review, shall be submitted to the CDOT Region Appraisal Contract Administrator, Region Right of Way Manager, Project Development Branch Right of Way Services Contract Manager or their designee for work actually performed.
- b) For project assignments with a completion date of more than 30 days, The contractor may submit periodic invoices for services rendered together with a periodic status report on a monthly or 30 day basis and at the completion of "appraisal services" for the project assignment. The status reports shall include as a minimum: date of all owner contacts, copies of all correspondence to and from the parcel property owner, all comments or questions the property owner submits during the owner contacts, and progress made on a parcel by parcel basis.

Or,

The contractor may submit an invoice upon delivery of a draft copy of an assigned parcel less 20% withholding until final review is completed. After final appraisal review and delivery of all final copies of the parcel appraisal, the contractor may submit an invoice for the 20% withholding for that particular parcel.

## SECTION 5.0

### SCOPE OF WORK

The Work has the following scope:

#### 5.1 WORK LOCATIONS:

The potential projects on which the Work may be performed are in various locations throughout the Denver metropolitan area and the State of Colorado. The specifics of a particular project will be set out in the Task Order applicable to that project. See Attachment B for Transportation Regions in which potential projects are located.

#### 5.2 "APPRAISAL SERVICES":

The contractor shall use CDOT appraisal format(s) in the performance of the "appraisal services" Work.

The contractor shall perform the following provisions, requirements or details of work:

1. The Contractor shall use CDOT appraisal format(s) and prepare all appraisal reports consistent with: the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended; 49 CFR Part 24; 23 CFR Parts 710-713; 38 CRS; 43 CRS; CDOT Right of Way Manual, Chapter 3, as may be amended; appropriate State Laws, regulations, policies and procedures; and Uniform Standards of Professional Appraisal Practice.
2. The Contractor shall conform to recognized appraisal principles and practices of the appraisal profession in estimating the value of the properties. Valuation of such property must also be in accordance with judicially recognized methods of property evaluation.
3. Appraisals are to be Complete Appraisals as per USPAP Standards Rule 1. It is the Contractor's responsibility not to perform a Limited Appraisal when the result may mislead or confuse the intended users of the appraisal report. If a Limited Appraisal is deemed to be appropriate and a reliable indicator of reasonable market value, then the Contractor is to notify CDOT immediately for concurrence. Jurisdictional Exceptions and Supplemental Standards apply to appraisals prepared for CDOT.
4. At a minimum, appraisal reports prepared for CDOT shall be Summary Appraisal Reports as per USPAP Standards Rule 2-2(b). Supplemental standards shall apply to the reporting of the appraisal process. At times, CDOT may require a restricted appraisal report for property disposal purposes.
5. "Appraisal services" is based upon the per hour rate specified in Price Agreement No. (Contract Routing No.) XXX.

6. "Litigation services" is based upon the per hour rate specified in Price Agreement No. (Contract Routing No.) XXX.
7. Based upon the "appraisal services" \$XX.XX per hour rate specified in Price Agreement No. (Contract Routing No.) XXX, the total lump sum fee of \$X,XXX is for XX hours for "appraisal services".
8. Start date shall be the date the Task Order is issued by CDOT Purchasing Department. Final due date or delivery date shall be as described in the Task Order. This schedule permits delivery of the appraisal reports prior to the final due or delivery date.
9. The Contractor shall be the sole signatory of the appraisal report(s) and shall be the person who personally performed the appraisal.
10. The most critical and highest priority parcels assigned in descending order of priority and projected delivery date are as follows:

Parcel Number	Projected Delivery Date

11. Remaining ownerships will be appraised and submitted to the Department as soon as completed, prior to or by the above stated due date, as follows:

Parcel Number	Projected Delivery Date

12. The Contractor shall use the following jurisdictional definition of "reasonable market value" in the real estate appraisal and real estate appraisal report for the valuation of a total acquisition or for the valuation of the larger parcel before the part to be taken (partial acquisition) is acquired:

"Reasonable market value" means the fair, actual, cash market value of the property. It is the price the property could have been sold for on the open market under the usual and ordinary circumstances, that is, under those circumstances where the owner was willing to sell and the purchaser was willing to buy, but neither was under an obligation to do so.

In determining the market value of the property actually taken, you are not to take into account any increase or decrease in value caused by

the proposed public improvement." [*Colorado Jury Instructions - Civil 4th*, 36:3]

Consideration for any increase or decrease in value caused by the proposed public improvement is also stated in the *Code of Federal Regulations, Title 49, Part 24, Section 103(b)* (49 CFR 24.103(b)) as follows:

"Disregard any decrease or increase in the fair market value of the real property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project, other than that due to physical deterioration within the reasonable control of the owner."

13. The State of Colorado "modified before and after rule". In addition to the above definition of "reasonable market value", the Contractor shall use the following jurisdictional definitions in the real estate appraisal and appraisal report to value the residue after the part to be taken is acquired. The influence of the proposed public improvement is considered except for any damages or benefits that are shared in common with the community at large. *Colorado Jury Instructions - Civil 4th*, 36:4 addresses the ascertainment of damages and benefits to the residue and *Colorado Jury Instructions - Civil 4th*, 36:5 addresses limitations on the ascertainment of damages to the residue. The Contractor shall use the following jury instructions concerning damages and benefits to the residue after take.

#### **"36:4 Ascertainment of Damages and Benefits to Residue**

...'Residue' means that portion of any property which is not taken but which belongs to the respondent, (*name*), and which has been used by, or is capable of being used by, the respondent, together with the property actually taken, as one economic unit.

Any damages or benefits are to be measured by the effects the acquisition of, and the expected uses of, the property actually taken has on the reasonable market value of the residue. Any damages are to be measured by the decrease, if any, in the reasonable market value of the residue, that is, the difference between the reasonable market value of the residue before the property actually taken is acquired and the reasonable market value of the residue after the property actually taken has been acquired. Any damages which may result to the residue from what is expected to be done on land other than the land actually taken from the respondent and any damages to the residue which are shared in common with the community at large are not to be considered.

Similarly, any benefits to the residue are to be measured by the increase, if any, in the reasonable market value of the residue due to

the (construction) (improvement) of the *(insert brief description of the proposed improvement)*. For anything to constitute a specific benefit, however, it must result directly in a benefit to the residue and be peculiar to it. Any benefits which may result to the residue but which are shared in common with the community at large are not to be considered.

Nothing should be considered as a factor of either damages or benefit unless you find that it increases or decreases the reasonable market value of the residue.

Any finding of damages or benefits to the residue shall not affect your determination of the value of the property actually taken.

You are to determine any damages or benefits as separate, independent items. You should not attempt to balance the two. Any adjustment or balancing must be done by the court."

#### **"36:5 Ascertainment of Damages to Residue - Limitations On**

In order for you to determine damages to the residue, you must find that the residue itself (has been) (will be) damaged by some diminution in its reasonable market value, either as a result of its being severed from the land actually taken or because the adjacent public use on the land actually taken from the respondent (but not on other land) will render the residue less valuable.

Infringement of the owner's personal pleasure or enjoyment in the use of the residue or even the owner's annoyance or discomfort do not constitute compensable damages. Neither does the fact that the residue may be less desirable for certain purposes. Such matters are not compensable except as they are a natural, necessary and reasonable result of the residue being severed from the land actually taken or of the uses expected to be made of the land actually taken, and are measurable by a reduction in the market value of the residue."

14. CDOT shall provide the Contractor Right of Way plans showing areas of land and interests therein to be acquired by the CDOT, and showing each parcel to be appraised designated by a parcel number. The Contractor shall use the parcel number and project number provided by CDOT to assure proper reference.
  - a) The Contractor shall make a detailed study of the plans provided, including a field study for such items as property lines, improvements, and conveyances, etc.

- b) Any discrepancies noted by the Contractor shall be promptly reported to the CDOT Region Right of Way Manager or designated Region Project Acquisition Manager.
- 3. The Contractor will coordinate with the Region Right of Way Manager or designated Region Project Acquisition Manager as to the timing of staking of the subject parcels.
- 4. The Contractor shall provide each property owner the opportunity to accompany the appraiser during an inspection of the property to be acquired.
  - a) The opportunity for the owner to accompany the appraiser during inspection of the property is required under the provisions of 24-56-117 (b), C.R.S., as amended.
  - b) The Contractor will provide the property owner a copy of the CDOT "Right of Way Information" booklet.
- 3. The parcels are to be appraised "as if clean" of toxic contamination or hazardous waste, unless otherwise stated in this Scope of Work.
- 4. The Contractor shall make a detailed inspection including measuring of the real properties identified in the specific Task Order, and shall perform such investigations and studies, as necessary to derive sound conclusions for the preparation and submission to CDOT of the appraisal reports.
  - a) The Contractor shall personally inspect each subject property, acquisition areas and temporary easements and will personally take photographs and measure any improvements affected.
  - b) The Contractor will personally inspect and measure dimensions of the interior and exterior of any subject property buildings and/or improvements that are or may be affected by the acquisitions.
  - c) The Contractor will include in the appraisal a floor plan sketch of buildings and/or improvements close to or affected by the acquisition.
- 4. The Region shall provide cost estimates to the Contractor to relocate any private utility lines involved in the above referenced parcels. If the Region cannot provide the utility estimates and the Contractor must obtain the estimates, then a new or revised Scope of Work and Task Order shall be necessary.
- 5. If required, the Contractor will be provided with a copy of CDOT Form #433, Certified Inventory of Real and Personal Property. It is essential that the Contractor include an estimate of all real property in the appraisal. The Contractor must indicate on Form #433 that all real property is included and



all personal property is not included in the value estimates. In the case of tenant owned real property the Contractor must separately state the value of all tenant owned real property. If the Contractor cannot assign a separate value to the tenant owned real property, then this fact will be noted on CDOT Form #433 and in the appraisal report. This inventory will be provided to the Contractor as early as possible in this process.

6. If any on-premise or off-premise (outdoor advertising/billboard) sign(s) is on a subject parcel, the value of the sign(s) is to be included in the appraisal report. The value of the sign site for off-premise signs is to be shown as a separate allocation.

When “salvage value” is requested, it is defined in 49 CFR, 24.2(s) (Revised October 1, 1998) as follows:

“The term salvage value means the probable sale price of an item, if offered for sale on the condition that it will be removed from the property at the buyer's expense, allowing a reasonable period of time to find a person buying with knowledge of the uses and purposes for which it is adaptable and capable of being used, including separate use of serviceable components and scrap when there is no reasonable prospect of sale except on that basis.”

- a) For on-premise signs located on the subject property, the Contractor shall include in the appraisal:
  - 1) Contributory value of the sign.
  - 2) Cost to remove and relocate the sign onto the residue property.
  - 3) Salvage value of the on-premise sign within the acquisition area.
- b) For off-premise signs (billboards) located on the subject property, the Contractor shall include in the appraisal:
  - 1) If the off-premise sign can be legally relocated after the acquisition, then include in the appraisal report the following value estimates for relocation:
    - (a) Value in place based upon the State Sign Cost Schedule.
    - (b) Salvage value.
  - 2) If the off-premise sign cannot be legally relocated after the acquisition, then the following value estimates will be included in the appraisal report as appropriate:

- (a) Cost approach. The cost approach should include, when possible, the following estimates:
    - (1) Cost estimate from a national cost service.
    - (2) Cost estimate from a sign company other than the company that owns the off-premise sign.
  - (b) Sales comparison approach.
  - (c) Income capitalization approach.
  - (d) Salvage value.
- 3. The Contractor must provide adequate factual data in the reports to support the conclusions reached as to value, in sufficient detail to allow an appraisal reviewer to follow and understand the conclusion reached by the Contractor.
  - a) The Contractor shall personally inspect and photograph comparable sales, and personally confirm real estate sales data used in the appraisal report with the grantee and/or grantor or both when possible.
  - b) When required, the Contractor shall include in the appraisal report either in dollar or percentage form, all adjustments made for comparison purposes as set forth in CDOT Right of Way Manual, Chapter 3, as may be amended.
  - c) When appropriate, the Contractor shall personally inspect and confirm rental properties and rental data.
- 4. The Contractor shall complete and execute a "Certification of Appraiser" similar to that shown in CDOT Right of Way Manual, Chapter 3, as may be amended, and shall include such certification in each report.
- 5. Three (3) copies of the State, Regional, Metropolitan or City data shall be prepared by the Contractor and submitted separately for the main Colorado Department of Transportation project file when multiple parcels are being appraised in a transportation project. The main file copy shall be referenced in the body of the narrative reports. The Contractor shall include neighborhood data and analysis in each appraisal report.
- 6. Upon completion of the inspection, investigations, and studies the Contractor shall prepare, furnish, and deliver to CDOT an appraisal report(s) in three (3) copies covering each property on which an appraisal is made as follows:

- a) The Contractor will first submit a preliminary or draft copy of the completed appraisal for CDOT appraisal review.
  - b) After appraisal review and approval, the Contractor shall submit three final copies of the completed appraisal report(s) to CDOT.
  - c) All signatures of the Contractor (sole signatory appraiser) in the three final copies of the appraisal report(s) shall be original.
  - d) When the final appraisal report(s) is delivered to CDOT, the Contractor shall submit one "Owner-Appraiser Contact Sheet", CDOT Form 1144a (9/94), for each parcel appraised.
5. At CDOT's request, the Contractor shall submit periodic status reports on a monthly or 30 day basis to the CDOT Region Appraisal Contract Administrator, Project Development Branch Right of Way Services Contract Manager or their designee. The status reports shall include as a minimum:
- a) Date of all owner contacts.
  - b) Copies of all correspondence to and from the parcel property owner.
  - c) All comments or questions the property owner submits during the owner contacts.
4. Depending upon the completion due date for the project assignment, a contractor can submit an invoice for the performance of the Work as follows:
- a) For a project with a completion date of 30 days or less, an invoice for payment in full at the completion of the entire project and after full appraisal review, shall be submitted to the CDOT Region Appraisal Contract Administrator, Region Right of Way Manager, Project Development Branch Right of Way Services Contract Manager or their designee for work actually performed.
  - b) For project assignments with a completion date of more than 30 days, The contractor may submit periodic invoices for services rendered together with a periodic status report on a monthly or 30 day basis and at the completion of "appraisal services" for the project assignment. The status reports shall include as a minimum: date of all owner contacts, copies of all correspondence to and from the parcel property owner, all comments or questions the property owner submits during the owner contacts, and progress made on a parcel by parcel basis.
- or,
- The contractor may submit an invoice upon delivery of a draft copy of an assigned parcel less 20% withholding until final review is completed. After

final appraisal review and delivery of all final copies of the parcel appraisal, the contractor may submit an invoice for the 20% withholding for that particular parcel.

3. The Contractor shall closely monitor all costs incurred in the performance of the work on a periodic basis, during the term of the Task Order. The Contractor shall maintain complete and accurate records of such cost monitoring. The Contractor shall monitor and record work costs during performance to ensure that the Contractor does not exceed the Task Order lump sum compensation or the maximum compensation not to be exceeded by the Contractor, and to ensure that the Contractor is aware of the actual costs being incurred during performance of the work and is able to notify CDOT in a timely way of any increase in work costs which may result in an additional Task Order or contract modification tool. The work cost records must substantiate any Contractor request for an adjustment, if any, under the Task Order. If the Contractor fails to monitor costs, maintain cost records, and notify CDOT of any increase in estimated costs and need for a supplemental Task Order or contract modification tool in a timely way as provided herein, then an increase in the lump sum compensation or time for performance of the Task Order will not be executed.
4. The Contractor shall perform its duties hereunder as an independent Contractor and not as an employee. Neither the Contractor nor any agent or employee of the Contractor shall be or shall be deemed to be an agent or employee of the state, and they shall have no authorization, express or implied, to bind the state to any agreements, settlements, liability, or understanding except as expressly set forth herein. The Contractor shall be responsible to the state for the ultimate results of performance required hereunder but shall not be subject to the direction and control of the state as to the means and methods of accomplishing the results. The specifications in this contract of particular performance standards the state deems essential to proper performance and contract value shall in no event be deemed to alter this relationship. The Contractor shall pay when due all required employment taxes and income tax withholding, including all federal and state income tax on moneys paid pursuant to this contract. The Contractor shall provide and keep in force worker's compensation (and show proof of such insurance) and unemployment compensation insurance in the amounts required by law, and shall be solely responsible for the acts of Contractor, its employees and agents. The Contractor acknowledges that the Contractor and its employees are not entitled to the benefits of worker's compensation insurance or unemployment insurance unless the Contractor or a third party provides such coverage and that the state does not pay for or otherwise provide such coverage.
5. The work, which is the subject of this Task Order, is confidential in nature and is being performed pursuant to litigation. All reports, data, drawings, photographs, computer information, documents, and other such information,

which the Contractor acquired, developed or otherwise obtained in the completion of this Task Order, shall remain confidential. No such information shall be divulged to any person outside the Contractor's organization without first obtaining the written consent of the CDOT. Any violation of this term may be cause for termination and legal action against the Contractor, and defense of such action shall be the sole responsibility of the Contractor.

6. CDOT shall have the right to terminate this Task Order by giving the other party 10 days notice by registered mail, return receipt requested. If notice is so given, this agreement shall terminate on the expiration of the ten days, and the liability of the parties hereunder for the further performance of the terms of this agreement shall thereupon cease, but the parties shall not be relieved of the duty to perform their obligations up to the date of termination.
7. The right is reserved by CDOT to terminate the Task Order at any time upon written notice, in the event the work is to be abandoned or indefinitely postponed; or in case the services of the Contractor, in the judgement of CDOT are unsatisfactory; or because of the Contractor's failure to prosecute the work with diligence or within the time limits specified. In any such case, CDOT will pay the Contractor for work accomplished to date on the basis of the incurred cost of actual work performed. All work accomplished by the Contractor prior to the date of such termination shall be recorded and tangible work documents shall be transferred to and become the sole property of CDOT prior to payment for services rendered.
8. Pursuant to CRS 24-30-202.4 (as amended), the state controller may withhold debts owed to state agencies under the vendor offset intercept system for: (a) unpaid child support debt or child support arrearages; (b) unpaid balance of tax, accrued interest, or other charges specified in Article 22, Title 39, CRS; (c) unpaid loans due to the student loan division of the department of higher education; (d) owed amounts required to be paid to the unemployment compensation fund; and (e) other unpaid debts owing to the state or any agency thereof, the amount of which is found to be owing as a result of final agency determination or reduced to judgment as certified by the controller.

#### APPRAISAL OF CDOT OWNED PROPERTY:

1. Appraisals for the Disposal of Excess Right Of Way:
  - a) Appraisal Techniques (Remainder or Excess Parcel): For the disposal of excess parcels, the appraisal shall contain a range of values using any applicable valuation technique that could reasonably establish the fair market value parameters.
  - b) The following concepts are examples the Contractor shall consider depending on the situation:

- 1) Fair market value of the property standing alone in the market place.
- 2) Value to the adjoining owner(s) using an "across the fence" approach. This method would involve an appraisal of the area being disposed using values similar to the value of the adjacent property.
- 3) Enhancement [plottage, assemblage] value to the adjoining owner. This approach establishes an amount by which the value of a property is increased through assemblage of another property into the same ownership. This method is the reverse of the procedure for estimating loss in value due to a partial taking. The value of the parcel into which the subject is to be assembled is estimated before and after the assemblage, and the difference between the two values is the enhancement [plottage, assemblage] value.

#### 4. Appraisals for Access Control Rights:

There may be cases when only the access control rights are to be disposed of or moved. These rights can be quite valuable and may have cost a great deal originally. They should be appraised using the enhancement [plottage, assemblage] value method discussed above. It is recommended to request guidance from CDOT and legal counsel as to state law that may be controlling.

- a) Access Opening Appraisals: CDOT may request appraisals for access deed changes for private openings in access control owned by CDOT. The following guidelines have been developed to aid in the appraisal of access openings.
- b) Access Control Change Requiring an Access Deed Revision: Any access control change that requires an access deed revision will require an appraisal. Examples of some access changes are as follows:
  - 1) Change in number of openings (increase or decrease in openings).
  - 2) Change in access location.
  - 3) New access where no previous direct access existed.
  - 4) Use of access will change (farm to business) when current deed is specific as to land use.
  - 5) Change in access width (e.g., 17 to 35 feet).
- c) No Value Change Due To Proposed Change In Access Control:
  - 1) In the case where the Contractor determines that there is no change in property value due to the proposed change in access control, a letter appraisal to that effect will be sufficient.
  - 2) To support the Contractor's conclusions, all appraisal aspects of the access control change should be thoroughly investigated. Access letter appraisals shall be reviewed by a review appraiser. The letter requires the approval of the review appraiser.
- d) Value Change Due To Access Modifications:

Where there is a discernible change in property value due to access modifications, and the value can be supported by sales data, a full before and after appraisal will be done by the Contractor and followed by a full FMV from the review appraiser. As in the case of an appraisal on excess CDOT property, the FMV requires the approval of the Project Development Branch Manager.

e) Appraisal Reporting Options:

Any decision to select the level of appraisal (e.g., letter, short appraisal report or full narrative appraisal) will be based upon an evaluation by the Appraisal Contract Administrator.

A full FMV shall be prepared by the review appraiser for all access deed changes where there is any discernible value.

f) Value Estimate for Access Improvements:

The CDOT Region shall provide an estimate of value for the access improvements (e.g., acceleration and/or deceleration lanes) to the highway that are of some benefit to the highway or to the public. This value is based upon the CDOT cost estimate book or upon actual construction costs. Such value can be used to reduce the FMV.

### 5.3 "LITIGATION SERVICES":

1. If the Contractor performs the "appraisal services" Work on a project, the Contractor shall, upon notice from CDOT, also provide resulting "litigation services" for CDOT concerning that Work, as CDOT determines necessary, in any condemnation proceedings to acquire title to properties valued by the Contractor. CDOT will issue a separate Task Order to the Contractor for such services. At times, CDOT may find it necessary for a Contractor to perform "appraisal services" and "litigation services" when a property is filed for condemnation, even though the Contractor may not have performed the original "appraisal services".

"Appraisal services" or activities shall include (without limitation) the updating of appraisals and appraisal reports, any proceeding including attendance and/or assistance as required by CDOT in all pre-trial and post-trial conferences or activities, and any preparations therefor, concerning a condemnation or a quiet title action or an administrative hearing, regarding such property(ies).

2. Resulting "litigation services" may include (without limitation) the following as they pertain to any "appraisal services" performed by the Contractor:
  - a) All Contractor testimony and/or attendance at immediate possession hearings, subsequent valuation trials, and quiet title proceedings, if CDOT and/or the Colorado Office of the Attorney General determine such to be needed.
  - b) All Contractor testimony and/or attendance at administrative hearings.



- c) Contractor attendance at depositions if CDOT and/or the Colorado Office of the Attorney General determines such to be needed. However, CDOT will not pay for depositions required by opposing attorneys: payment for such depositions shall be the responsibility of the opposing attorneys and their clients.

## SECTION 6.0

### STATUTORY REQUIREMENTS

#### 6.1 STATUTORY REQUIREMENTS:

A contractor shall perform all of the Work authorized by Task Order issued under this RFP in accordance with the following statutory and CDOT procedure manual requirements (as well as any other applicable law):

- a) Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and §24-56-101 through 24-56-121, C.R.S. as amended.
- b) CDOT Right of Way Manual, Chapter 3, Appraisal and Review, as may be amended.
- c) Department of Transportation (DOT) Regulations, 49 C.F.R., Part 24, as may be amended.
- d) DOT Title VI Compliance Program.
- e) All appraisers must have a State of Colorado Certified General Appraiser certification consistent with the requirements of C.R.S. 12-61-701 through 716, as amended.
- f) A contractor shall provide each property owner the opportunity to accompany the appraiser during an inspection of the property to be acquired under the provisions of C.R.S. §24-56-117 (b).
- g) All reports must be prepared consistent with the requirements of the Uniform Standards of Professional Appraisal practice as adopted by the State of Colorado, including jurisdictional exceptions.
- h) C.R.S. 38-1-101-121

A contractor shall be responsible to obtain and review the above requirements and to perform the work in accordance with such requirements. The requirements are available for review and copying at the applicable CDOT Region Right Of Way Offices and CDOT Headquarters, Staff Right Of Way Services, Project Development Branch.

## SECTION 7.0

### CDOT'S DATA, MATERIALS, AND REQUIREMENTS

- 7.1 CDOT shall provide a contractor the following materials on the particular projects on which the contractor is authorized by Task Order to perform the Work:
- a) All required CDOT formats as shown in Chapter 3, CDOT Right of Way Manual, Appraisal and Review, as may be amended.
  - b) Right of Way plans and legal descriptions for all project parcels to be valued (Design/Build projects will provide plans and legal descriptions as may be available).
  - c) Design/construction plans, as available.
  - d) Memorandums of Ownership, ownership and encumbrance reports, and/or title commitments on all project parcels to be valued.
  - e) Letter of Information, prepared by the applicable Region, which sets out specific or unique considerations which may be present on a project parcel.
  - f) CDOT will field inspect the project parcels with the successful contractor prior to issuance of a Task Order on a particular project.
  - g) Environmental/hazardous waste reports.

SECTION 8.0  
ATTACHMENTS

- A. Counties Served By CDOT Regions
- B. Projects Which May Be Awarded Under The RFP
- C. Provision For Required Insurance
- D. Special Provisions – Form 6-AC-02B and 6-AC-02C
- E. Consultant Certification – CDOT Form #637
- F. Standard Contract Terms

## COUNTIES SERVED BY CDOT REGIONS

**REGION 1**

1. Adams
2. Arapahoe
3. Boulder -  
(Portion)
4. Cheyenne
5. Clear Creek
6. Douglas
7. Elbert
8. Gilpin
9. Jefferson
10. Kit Carson
11. Lincoln
12. Park
13. Summit

**REGION 2**

1. Baca
2. Bent
3. Crowley
4. Custer
5. El Paso
6. Fremont
7. Huerfano
8. Kiowa
9. Las Animas
10. Otero
11. Park - (Portion)
12. Prowers
13. Pueblo
14. Teller

**REGION 3**

1. Delta
2. Eagle
3. Garfield
4. Grand
5. Gunnison
6. Hinsdale
7. Jackson
8. Lake
9. Mesa
10. Moffat
11. Montrose
12. Pitkin
13. Rio Blanco
14. Routt

**REGION 4**

1. Boulder
2. Larimer
3. Logan
4. Morgan
5. Phillips
6. Sedgwick
7. Washington
8. Weld
9. Yuma

**REGION 5**

1. Alamosa
2. Archuleta
3. Chaffee
4. Conejos
5. Costilla
6. Dolores
7. Fremont -  
(Portion)
8. La Plata
9. Mineral
10. Montrose
11. Montezuma
12. Ouray
13. Rio Grande
14. Saguache
15. San Juan
16. San Miguel

**REGION 6**

1. Adams - (Portion)
2. Arapahoe -  
(Portion)
3. Boulder -  
(Portion)
4. Denver
5. Douglas -  
(Portion)
6. Jefferson -  
(Portion)

**PROJECTS WHICH MAY BE AWARDED UNDER THE RFP**

REGION	PROJECT	LOCATION
1	NH 2854-064	Settler's Drive – Eaglecliff Rd
	NH 2854-067	Eagle Cliff to Foxton Rd.
	SP 4012 SH40	Hugo to Kiowa County Line
	SP 4014 SH40	E Side of Berthoud Major widening safety
	STA 0852-082	SH 85 Titan Rd Intersection
	IM 0252-322 I-25 5 <sup>th</sup> St.	Wofensberger Interchange
	IN 179 STIP SH9	North of Silverthorne to Ute Pass Rd.
	STA 1192-008	Blackhawk North
	IN 1409 STIP SH6	4 Lane Gap Section
	CF 2084 STIP SH285	Kenosha Pass Jct. Of SH9
2	NH 2872-013	Wiley Jct. – North
	NH 05055-032	SH 50 E. Of Hasty
	NH 0504-031	US 50 at 36th Lane
	NH-IR(CX) 0251(126)	Jct I-25, SH50,SH47
	IM-IR(CX) 025-1(121)	Goddard- South
	BR 0504-029	Salt Creek
	IM 0851-002	SH 85/Fountain Inter.
	STU 0831-078	SH83 - Shoup, Northgate,Hodgen
	Multiple Projects	Powers Corridor – North of Woodmen Road
	IM 0252-310	Woodmen Rd. Interchange
	SR-STR(CX) 0105(4)	Monument Interchange
	CXFC-CY 43-0024-21	Woodland Park to Divide
	STA 1151-009	Big Turkey Creek N & S.
	IM 0252-309	Nevada/Tejon Interchange
	Multiple Projects	I-25 Corridor through Colo. Springs and El Paso County
	NH 043-058	SH 24 E., Powers to Calhan

**PROJECTS WHICH MAY BE AWARDED UNDER THE RFP**

REGION	PROJECT	LOCATION
2	STA 0851-001	SH 85-Main St.
	NH 0242-028	Cascade/Pikes Peak Hwy.
3	BR 006A0028	Eagle River Bridge
	BR 0131-006	White River Bridge
	BR 0401-016	Deception Creek Bridge
	BR 0402-055	Coal Creek Bridge
	BR 0641-010	Boise Creek Bridge
	C 340A-007	West of Redlands Pkwy
	NH 0402-054	West of Muddy Pass
	SP 0501-038	Kannah Creed East
	SP 0821-052	Snowmass Canyon
	SP 0821-053	ABC to Buttermilk
	STR 0131-037	Meeker Stage Stop S.
	STR 131A-024	Haymaker Golf Course S.
	STR 135A-018	Crested Butte S. Phase 2
4	NH-IR 025-3(109)	Multiple Projects on I-25
	NH 2873-068	Berthoud By Pass
	STM 0341-050	SH 34 Loveland
	STM 402A-003	SH 402
	BR 144A-018	Bijou Canal
	BR 0361-056	Cherryvale & 88th

## PROJECTS WHICH MAY BE AWARDED UNDER THE RFP

REGION	PROJECT	LOCATION
5	C 1602-066 Phase 2	Jct Sh 172 East
	NH(CX) 1602(50)	West of Mineral /Rio Grande Line
	C 1602-066	Jct. Sh 160/550 to Jct Sh 160/172
	BR 0502-046	N. Fork South of Arkansas River
	NH 2852-006	Junction SH 17- North
	C 017A-008	SH 17 Alamosa North
	NH2852-009	US 285 and S.H. 112
6	STU 2225-060	Iliff Ave, I 225 to Abeline St.
	STU C100-011	Arapahoe /Parker Interchange
	IR-NH(CX) 225-4(46)	I 225: I 25 to I 70
	NH 0853-038	Santa Fe: Church to C-470
	CXBRF 10-0470-09	County Line Rd: Colo Blvd – Quebec
	IM 0703-246	I 70/SH 58 Interchange
	IR(CX) 270-6(26)	I 270 at I 76
	IR-IM-NH(CX) 025-3(107)	I 25/US 36/SH 270 Interchange
	NH 0252-299	Southeast Corridor I-25 Broadway to Lincoln



## **ATTACHMENT C**

**STATE OF COLORADO  
DEPARTMENT OF TRANSPORTATION  
PROVISION FOR REQUIRED INSURANCE  
REVISED FEBRUARY, 1995**

The successful bidder will be required to submit certificates showing the following minimum insurance coverage:

1. Standard Workers' Compensation and Employer's Liability, including occupational disease, covering all employees engaged in performance of the work at the site in the amount required by State Statutes.
2. Comprehensive General Public Liability (PL), and Property Damage (PD) Insurance (minimum):
  - a) Combined single limit - \$600,000 written on an occurrence basis.
  - b) Any aggregate limit will not be less than \$1 million.
  - c) Successful Bidder must purchase additional insurance if claims reduce the annual aggregate below \$600,000.
  - d) State of Colorado to be named as additional insured on each comprehensive general liability policy.
  - e) Certificate of insurance to be provided to the State (within 10 working days after receipt of award).
  - f) Insurance shall include provisions preventing cancellation without 60 days prior notice by certified mail to the State.
3. Automobile Liability (Minimum):
  - a) Successful Bidder to carry a minimum of \$600,000 combined single limit auto insurance.
4. Additional coverage may be required in specific solicitations.

The appropriate Task Order/Contract/Bid number must be reference on the Insurance Certificate. Send Insurance certificates to the below address:

Colorado Department of Transportation  
Detrica "Trish" Wilson, Purchasing Agent  
4201 E. Arkansas Ave., Room 150  
Denver, CO 80222

## **SPECIAL PROVISIONS**

### **CONTROLLER'S APPROVAL**

1. This contract shall not be deemed valid until it shall have been approved by the Controller of the State of Colorado or such assistant as he may designate. This provision is applicable to any contract involving the payment of money by the State.

### **FUND AVAILABILITY**

2. Financial obligations of the State of Colorado payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

### **BOND REQUIREMENT**

3. If this contract involves the payment of more than fifty thousand dollars for the construction, erection, repair, maintenance, or improvement of any building, road, bridge, viaduct, tunnel, excavation or other public work for this State, the contractor shall, before entering upon the performance of any such work included in this contract, duly execute and deliver to the State official who will sign the contract, a good and sufficient bond or other acceptable surety to be approved by said official in a penal sum not less than one-half of the total amount payable by the terms of this contract. Such bond shall be duly executed by a qualified corporate surety conditioned upon the faithful performance of the contract and in addition, shall provide that if the contractor or his subcontractors fail to duly pay for any labor, materials, team hire, sustenance, provisions, provendor or other supplies used or consumed by such contractor or his subcontractor in performance of the work contracted to be done or fails to pay any person who supplies rental machinery, tools, or equipment in the prosecution of the work the surety will pay the same in an amount not exceeding the sum specified in the bond, together with interest at the rate of eight per cent per annum. Unless such bond is executed, delivered and filed, no claim in favor of the contractor arising under such contract shall be audited, allowed or paid. A certified or cashier's check or a bank money order payable to the Treasurer of the State of Colorado may be accepted in lieu of a bond. This provision is in compliance with CRS 38-26-106.

### **INDEMNIFICATION**

4. To the extent authorized by law, the contractor shall indemnify, save, and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by the contractor, or its employees, agents, subcontractors, or assignees pursuant to the terms of this contract.

### **DISCRIMINATION AND AFFIRMATIVE ACTION**

5. The contractor agrees to comply with the letter and spirit of the Colorado Antidiscrimination Act of 1957, as amended, and other applicable law respecting discrimination and unfair employment practices (CRS 24-34-402), and as required by Executive Order, Equal Opportunity and Affirmative Action, dated April 16, 1975. *Pursuant thereto, the following provisions shall be contained in all State contracts or sub-contracts.*

During the performance of this contract, the contractor agrees as follows:

(a) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, marital status, religion, ancestry, mental or physical handicap, or age. The contractor will take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to the above mentioned characteristics. Such action shall include, but not be limited to the following: employment upgrading, demotion, or transfer, recruitment or recruitment advertisements; lay-offs or terminations; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth provisions of this non-discrimination clause.

(b) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, State that all qualified applicants will receive consideration for employment without regard to race, creed, color, national origin, sex, marital status, religion, ancestry, mental or physical handicap, or age.

(c) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, notice to be provided by the contracting officer, advising the labor union or workers' representative of the contractor's commitment under the Executive Order, Equal Opportunity and Affirmative Action, dated April 16, 1975, and rules, regulations, and relevant Orders of the Governor.

(d) The contractor and labor unions will furnish all information and reports required by Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975, and by the rules, regulations and Orders of the Governor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the office of the Governor or his designee for purposes of investigation to ascertain compliance with such rules regulations and orders.

(e) A labor organization will not exclude any individual otherwise qualified from full membership rights in such labor organization, or expel any such individual from membership in such labor organization or discriminate against any of its members in the full enjoyment of work opportunity because of race, creed, color, sex, national origin, or ancestry.

(f) A labor organization, or the employees or members thereof will not aid, abet, incite, compel or coerce the doing of any act defined in this contract to be discriminatory or obstruct or prevent any person from complying with the provisions of this contract or any order issued thereunder; or attempt, either directly or indirectly, to commit any act defined in this contract to be discriminatory.

(g) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further State contracts in accordance with procedures, authorized in Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975 and the rules, regulations, or orders promulgated in accordance therewith, and such other sanctions as may be imposed and remedies as may be invoked as provided in Executive Orders, Equal Opportunity and Affirmative Action of April 16, 1975, or by rules, regulations, or orders promulgated in accordance therewith, or as otherwise provided by law.

(h) The contractor will include the provisions of paragraphs (a) through (h) in every subcontract and subcontractor purchase order unless exempted by rules, regulations, or orders issued pursuant to Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontracting or purchase order as the contracting agency may direct, as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation, with the subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the State of Colorado to enter into such litigation to protect the interest of the State of Colorado.

## **COLORADO LABOR PREFERENCE**

6a. Provisions of CRS 817101 & 102 for preference of Colorado labor are applicable to this contract if public works within the State are undertaken hereunder and are financed in whole or in part by State funds.

6b. When a construction contract for a public project is to be awarded to a bidder, a resident bidder shall be allowed a preference against a nonresident bidder from a State or foreign country equal to the preference given or required by the State or foreign country in which the nonresident bidder is a resident. If it is determined by the officer responsible for awarding the bid that compliance with this subsection .06 may cause denial of federal funds which would otherwise be available or would otherwise be inconsistent with requirements of Federal law, this subsection shall be suspended, but only to the extent necessary to prevent denial of the moneys or to eliminate the inconsistency with Federal requirements (CRS 819101 and 102).

## **GENERAL**

7. The laws of the State of Colorado and rules and regulations issued pursuant thereto shall be applied in the interpretation, execution, and enforcement of this contract. Any provision of this contract whether or not incorporated herein by reference which provides for arbitration by any extrajudicial body or person or which is otherwise in conflict with said laws, rules, and regulations shall be considered null and void. Nothing contained in any provision incorporated herein by reference which purports to negate this or any other special provision in whole or in part shall be valid or enforceable or available in any action at law whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision will not invalidate the remainder of this contract to the extent that the contract is capable of execution.

8. At all times during the performance of this contract, the Contractor shall strictly adhere to all applicable federal and State laws, rules, and regulations that have been or may hereafter be established.

9. Pursuant to CRS 2430202.4 (as amended), the state controller may withhold debts owed to state agencies under the vendor offset intercept system for: (a) unpaid child support debt or child support arrearages; (b) unpaid balance of tax, accrued interest, or other charges specified in Article 21, Title 39, CRS; (c) unpaid loans due to the student loan division of the department of higher education; (d) owed amounts required to be paid to the unemployment compensation fund; and (e) other unpaid debts owing to the state or any agency thereof, the amount of which is found to be owing as a result of final agency determination or reduced to judgment as certified by the controller.

- The signatories aver that they are familiar with CRS 18-8-301, et. seq., (Bribery and Corrupt Influences) and CRS 188 401, et. Seq., (Abuse of Public Office), and that no violation of such provisions is present.
- The signatories aver that to their knowledge, no State employee has any personal or beneficial interest whatsoever in the service or property described herein:

## ATTACHMENT E

# COLORADO DEPARTMENT OF TRANSPORTATION CONSULTANT CERTIFICATION

Consultant firm name	
Consultant firm complete address	
Authorized representative name (print)	Title
<p>I certify that neither I nor the above firm I represent has:</p> <ul style="list-style-type: none"> <li>- employed or retained for a commission, percentage, brokerage, gift, contingent fee or other consideration, any firm or person (other than a bonafide employee working solely for me or the above consultant) contingent upon or resulting from the award or making of this contract, or to solicit or secure this contract;</li> <li>- agreed as a known or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the contract; or</li> <li>- paid, or agreed to pay, to any firm, organization or person (other than a bonafide employee working solely for me or the above consultant) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the contract;</li> </ul> <p>I further certify that:</p> <ul style="list-style-type: none"> <li>- any exceptions to the conditions listed above are:</li> </ul>	
<ul style="list-style-type: none"> <li>- wage rates and other factual unit costs supporting the compensation to be paid under this contract are accurate, complete and current.</li> </ul> <p>I acknowledge that this certificate is to be furnished to the Colorado Department of Transportation and the Federal Highway Administration, U.S. Department of Transportation, in connection with this contract involving participation of Federal Aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.</p> <p>I DECLARE UNDER PENALTY OF PERJURY IN THE SECOND DEGREE, AND ANY OTHER APPLICABLE STATE OR FEDERAL LAWS THAT THE STATEMENTS MADE ON THIS DOCUMENTS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.</p>	
Firm representative signature	Date

**CERTIFICATION OF THE COLORADO DEPARTMENT OF TRANSPORTATION**

<p>I certify that I am the duly authorized representative of the Colorado Department of Transportation and, that the above Consulting firm or its representative has not been required, directly or indirectly as a known or implied condition in connection with obtaining or carrying out this contract to:</p> <ul style="list-style-type: none"> <li>- employ or retain, or agree to employ or retain, any firm or person; or</li> <li>- pay, or agree to pay, any firm, person, or organization, any fee, contribution, donation, or consideration of any kind;</li> </ul> <p>I further certify that:</p> <ul style="list-style-type: none"> <li>- any exception to the conditions listed above are:</li> </ul>	
<p>I acknowledge that this certificate is to be furnished the Federal Highway Administration, U.S. Department of Transportation, in connection with this contract involving participation of Federal Aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.</p>	<p>CDOT representative signature and title</p>
<p>CDOT representative signature and title</p>	<p>Date</p>

**STANDARD CONTRACT TERMS**

1. **CONTRACT STANDARDS:** Each selected Contractor will be required to enter into an "as needed" contract, as defined in Section 4.4 of the RFP.

The Contract will incorporate the RFP, any published addenda, the standard State Special Provisions, and the Contractor's response to the RFP, as terms and conditions.

Any Task Order issued to a Contractor to authorize the performance of the Work will incorporate therein all terms and conditions of the Contract.

2. **CDOT OWNERSHIP OF CONTRACT PRODUCTS:** All reports and data developed or produced to fulfill the Contract shall be the sole property of CDOT.

3. **GOVERNING LAW:** This RFP and any Contract and any Task Orders issued hereunder shall be governed by the laws of the State of Colorado. The proposer(s) agrees to comply with all applicable Federal, State and local laws, and rules and regulations in the performance of the work, including without limitation the Statutory Requirements described in Section 6.0 of this RFP.

4. **CONSULTANT CERTIFICATION:** All Contractor(s) must meet and certify compliance with standard state certification requirements as identified on the attached Consultant Certification Form - CDOT Form #637 to the RFP.

5. **PHASE INSPECTIONS:** CDOT shall have the right to inspect any of the Contractor's records and/or actions concerning the Work, at all reasonable times without notice, either on a continuing or a spot check basis, including visits to the Contractor's office or the Work premises. The Contractor shall cooperate with such inspections and visits.

6. **WORK SCHEDULES AND REPORTING REQUIREMENTS:** The selected Contractor and CDOT will establish a completion date in the Task Order(s) for the Work to be accomplished on particular projects. At CDOT's request, written status reports shall be provided by the Contractor on a periodic basis to be mutually agreed upon, and the Contractor shall submit such requested reports with periodic invoices to the CDOT Region Appraisal Contract Administrator, Project Development Branch Right of Way Services Contract Manager or their designee. However, this periodic communication does not preclude the Contractor from also communicating with CDOT on an on going basis to address issues and resolve problems concerning the Work as expeditiously as possible. Such additional communications are encouraged. Any deviations from the established requested periodic reporting schedule must be approved in writing in advance by CDOT.

7. **CONFLICTS OF INTEREST:** The Contractor certifies that there will be no conflict of interest between the services to be provided to the Colorado Department of Transportation under a Task Order issued under the Contract and other services provided to CDOT or to other current clients of the Contractor, and that the Contractor will not accept future clients if such acceptance could result in a conflict of interest with the services provided hereunder and any current Contract obligations to CDOT. If a Contractor is selected by CDOT to perform work under this Contract, that same Contractor shall not be eligible to perform appraisal review work on the same project.
8. **TERMINATION:**
- a. Either CDOT or a Contractor may terminate the Contract without liability, upon ten (10) days written notice:
- 1) if no Task Orders were issued under that Contract; or
  - 2) if the Work has been satisfactorily completed on all Task Orders issued under that Contract.
- c. TERMINATION FOR CAUSE: If, through any cause, the Contractor shall fail to fulfill, in a timely and proper manner, its obligations under a Task Order issued pursuant to this Contract, or if the Contractor shall violate any of the covenants, agreements, or stipulations of such Task Order, CDOT shall thereupon have the right to terminate this Contract and Task Order for cause by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In that event, all finished or unfinished reports, documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by the Contractor under the Contract/Task Order shall, at the option of CDOT, become its property, and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials to the effective date of termination, pursuant to the terms of the Task Order.

"CAUSE" includes, without limitation the following:

- 1) If a Contractor furnished any statement, representation, warranty or certification in connection with the RFP or the resultant Contract, or Task Order, which is materially false, deceptive, incorrect, or incomplete.
- 2) If a Contractor fails to perform to CDOT's satisfaction any material requirement of the Contract or Task Order, or is in violation of any specific provision.
- 3) If CDOT reasonably determines satisfactory performance of the Contract or Task Order is substantially endangered or can reasonably anticipate such an occurrence or default.

Notwithstanding the above, the Contractor shall not be relieved of Liability to CDOT for any damages sustained by CDOT by virtue of any breach of the Contract/ Task Order by the Contractor, and CDOT may withhold any payment to the Contractor for the purposes of setoff until such time as the exact amount of damages due CDOT from the Contractor is determined.

If after notice of termination under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, or that the delay was excusable, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the termination for convenience clause.

d. **TERMINATION FOR CONVENIENCE:** CDOT may terminate this Contract, or any outstanding Task Order issued pursuant to the Contract, at any time CDOT determines that the purposes of the distribution of State monies under the Contract/ Task Order would no longer be served by completion of the Work/Project. CDOT shall effect such termination by giving written notice of termination to the Contractor and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination. In that event, all finished or unfinished documents and other materials as described in Termination for Cause shall, at the option of CDOT, become its property. If the Contract/ Task Order is terminated by CDOT as provided herein, the Contractor will be paid an amount which bears the same ratio to the total compensation as the services actually and satisfactorily performed to the effective date of termination bear to the total services of the Contractor pursuant to the terms of the Task Order, less payments of compensation previously made, and subject to CDOT's right of set off for any damages pursuant to the terms of the Contract/ Task Order. If this Contract is terminated due to the fault of the Contractor under paragraph b), Termination for Cause shall apply.

9. **DISCLOSURE:** The Contractor shall expressly disclose if it has had an appraisal services Contract terminated for default in the last five (5) years. Termination for default is notice to stop due to non-performance or failure to perform as required. If the proposer has had such a termination, the proposal shall provide sufficient information, including whether the default was litigated or not, to enable CDOT to evaluate all relevant circumstances of such default.
10. **SPECIAL PROVISIONS:** The Contract shall be subject to the special provisions as listed in the attached Special Provisions.
11. **STANDARD CONTRACT:** CDOT reserves the right to incorporate standard contract provisions into any contract.
12. **WITHHOLDING:** CDOT shall withhold up to 20% from the compensation (See Section 4.14 of the RFP) due to a Contractor for the performance of the Work. The

withholding will be held to assure satisfactory completion of all terms of the Task Order, and will be paid after full review of the appraisal.

- 13. DEFAULT/LIQUIDATED DAMAGES:** Timely performance of the Work by the Contractor on a particular project as authorized by Task Order is essential. CDOT will incur an uncertain amount of damages that would be difficult to quantify if the work is not satisfactorily completed by the Contractor by the required date agreed upon by Task Order.

If the Contractor does not complete the right of way services by the date required, CDOT has the right either to collect liquidated damages from the Contractor or to offset liquidated damages from compensation due the Contractor. If the CDOT determines that the right of way services need to be corrected or revised, CDOT shall provide written notice to the Contractor of the deficiencies. The Contractor must complete the required corrections or revisions at no additional cost to the CDOT and shall return the revised reports or determinations within five (5) working days of the receipt of the CDOT's written notice.

If the Contractor fails to satisfactorily complete the right of way services or such correction or revisions within the specified period, CDOT may collect from the Contractor or retain liquidated damages from the compensation otherwise due the Contractor for each day that the services or reports are not completed after the expiration of the five (5) day notice as follows:

- a. For each day of the first two calendar weeks after the deadline specified, the sum of one hundred dollars (\$100.00) per day; and
- b. for each day following the first two calendar weeks after the deadline specified, the sum of two hundred dollars (\$200.00) per day. The liquidated damages amounts specified above are not a penalty, but are based upon a reasonable estimate of the damages agreed upon, which would otherwise be difficult to determine. However, if the Contractor is unable to meet the deadline specified above due to events which, in the opinion of CDOT, are beyond the control of and without fault of the Contractor, CDOT may not retain such amounts provided the Contractor documents to the satisfaction of CDOT that the failure to meet the required deadlines is beyond the control and without fault of the Contractor. If, at the sole discretion of CDOT, conferences with the Contractor are necessary to explain or correct any of the work performed by the Contractor, then upon notice by CDOT the Contractor(s) shall attend necessary conferences and make any explanation or corrections in writing required by CDOT. The Contractor shall not be entitled to any additional compensation for such explanations, corrections, or conferences, or any supplemental or supporting data required by CDOT, which CDOT has reasonably determined should have been included in the reports or services provided.

- 3. CONTRACT AMENDMENTS:** If CDOT should require a change in the scope, character, or complexity of the Work to be performed under a Task Order, involving



an increase or decrease in the work or the time for performance of the work on particular projects, an equitable adjustment for completion time shall be negotiated between the parties. Compensation for additional time shall be at the specific rate(s) of pay set out by the Contractor. All changes shall be by Task Order, contract modification tool, or supplemental contract.

4. **CONFIDENTIALITY:** The Contractor(s) shall treat all information contained in and all reports to be made by the Contractor hereunder as strictly confidential for the benefit of CDOT. The Contractor(s) shall take all necessary steps to ensure that no member of the Contractor's staff, organization, or subcontractors shall divulge any information concerning such reports to anyone other than the proper officials of CDOT or the Federal Highway Administration (FHWA).
5. **NON-DISCRIMINATION:** The Contractor(s) shall comply with all applicable State and Federal laws, rules and regulations, involving non-discrimination on the basis of race, color, religion, national origin, age or sex. A copy of the required non-discrimination provisions is attached.
6. **CONTINGENT FEES:** The Contractor shall warrant that they have not employed or retained any company or person (other than a bona fide employee working solely for a proposer) to solicit or secure this Contract and that they have not paid or agreed to pay any person or entity (other than a bona fide employee working solely for a proposer) any fee, commission, percentage, brokerage fee, gift or other consideration on a basis that is contingent upon the award of this or subsequent Contracts. For a breach or violation of this warranty, CDOT has the right to terminate the Contract without liability.
7. **ACCOUNTING RECORDS:** The Contractor(s) will be required to maintain financial and accounting records and all other records of work performed pertaining to the Contract. Financial records must include date worked, employee name, hours worked and a description of the specific work performed on a daily basis. These records must be made available at all reasonable times by the proposer to CDOT during the Contract period and any extension thereof and for three (3) years from the date of final payment on the Contract or extension thereof.
8. **INDEPENDENT CONTRACTOR:** THE CONTRACTOR SHALL PERFORM ITS DUTIES HEREUNDER AS AN INDEPENDENT CONTRACTOR AND NOT AS AN EMPLOYEE. NEITHER THE CONTRACTOR NOR ANY AGENT OR EMPLOYEE OF THE CONTRACTOR SHALL BE OR SHALL BE DEEMED TO BE AN AGENT OR EMPLOYEE OF THE STATE, AND THEY SHALL HAVE NO AUTHORIZATION, EXPRESS OR IMPLIED, TO BIND THE STATE TO ANY AGREEMENTS, SETTLEMENTS, LIABILITY, OR UNDERSTANDING EXCEPT AS EXPRESSLY SET FORTH HEREIN. THE CONTRACTOR SHALL BE RESPONSIBLE TO THE STATE FOR THE ULTIMATE RESULTS OF PERFORMANCE REQUIRED HEREUNDER BUT SHALL NOT BE SUBJECT TO THE DIRECTION AND CONTROL OF THE STATE AS TO THE MEANS AND METHODS OF ACCOMPLISHING THE RESULTS. THE SPECIFICATIONS IN THIS CONTRACT OF PARTICULAR

PERFORMANCE STANDARDS THE STATE DEEMS ESSENTIAL TO PROPER PERFORMANCE AND CONTRACT VALUE SHALL IN NO EVENT BE DEEMED TO ALTER THIS RELATIONSHIP. THE CONTRACTOR SHALL PAY WHEN DUE ALL REQUIRED EMPLOYMENT TAXES AND INCOME TAX WITHHOLDING, INCLUDING ALL FEDERAL AND STATE INCOME TAX ON MONEYS PAID PURSUANT TO THIS CONTRACT. THE CONTRACTOR SHALL PROVIDE AND KEEP IN FORCE WORKER'S COMPENSATION (AND SHOW PROOF OF SUCH INSURANCE) AND UNEMPLOYMENT COMPENSATION INSURANCE IN THE AMOUNTS REQUIRED BY LAW, AND SHALL BE SOLELY RESPONSIBLE FOR THE ACTS OF CONTRACTOR, ITS EMPLOYEES AND AGENTS. THE CONTRACTOR ACKNOWLEDGES THAT THE CONTRACTOR AND ITS EMPLOYEES ARE NOT ENTITLED TO THE BENEFITS OF WORKER'S COMPENSATION INSURANCE OR UNEMPLOYMENT INSURANCE UNLESS THE CONTRACTOR OR A THIRD PARTY PROVIDES SUCH COVERAGE AND THAT THE STATE DOES NOT PAY FOR OR OTHERWISE PROVIDE SUCH COVERAGE.